S. 337. A bill to amend title 10, United States Code, to revise the age and service requirements for eligibility to receive retired pay for non-regular service, to expand certain authorities to provide health care benefits for Reserves and their families, and for other purposes; to the Committee on Armed Services.

By Mr. SMITH (for himself, Mr. BINGAMAN, Ms. SNOWE, Mr. JEFFORDS, Mr. SANTORUM, Mr. KERRY, Mr. DEWINE, Mr. DURBIN, Mr. CHAFEE, Mrs. LINCOLN, Ms. COLLINS, Mr. NELSON of Nebraska, Mr . VOINOVICH, Mr. CORZINE, and Mr. COLEMAN):

S. 338. A bill to provide for the establishment of a Bipartisan Commission on Medicaid; to the Committee on Finance.

By Mr. REID (for himself, Mr. BAUCUS, Mr. STEVENS, Mr. NELSON of Nebraska, and Mr. ENSIGN):

S. 339. A bill to reaffirm the authority of States to regulate certain hunting and fishing activities; to the Committee on the Judiciary.

By Mr. LUGAR:

S. 340. A bill to maintain the free flow of information to the public by providing conditions for the federally compelled disclosure of information by certain persons connected with the news media; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 5

At the request of Mr. ALLEN, his name was added as a cosponsor of S. 5, a bill to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes.

S. 33

At the request of Ms. CANTWELL, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 33, a bill to prohibit energy market manipulation.

S. 98

At the request of Mr. ALLARD, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 98, a bill to amend the Bank Holding Company Act of 1956 and the Revised Statutes of the United States to prohibit financial holding companies and national banks from engaging, directly or indirectly, in real estate brokerage or real estate management activities, and for other purposes.

S. 103

At the request of Mrs. FEINSTEIN, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 103, a bill to respond to the illegal production, distribution, and use of methamphetamine in the United States, and for other purposes.

S. 119

At the request of Mrs. FEINSTEIN, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 119, a bill to provide for the protection of unaccompanied alien children, and for other purposes.

S. 185

At the request of Mr. NELSON of Florida, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 185, a bill to amend title 10, United States Code, to repeal the requirement for the reduction of certain Survivor Benefit Plan annuities by the amount of dependency and indemnity compensation and to modify the effective date for paid-up coverage under the Survivor Benefit Plan.

S. 193

At the request of Mr. BROWNBACK, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 193, a bill to increase the penalties for violations by television and radio broadcasters of the prohibitions against transmission of obscene, indecent, and profane language.

S. 217

At the request of Mr. BINGAMAN, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 217, a bill to amend title 49, United States Code, to preserve the essential air service program.

S. 241

At the request of Ms. SNOWE, the names of the Senator from New Jersey (Mr. CORZINE) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 241, a bill to amend section 254 of the Communications Act of 1934 to provide that funds received as universal service contributions and the universal service support programs established pursuant to that section are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act.

S. 249

At the request of Mr. REID, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 249, a bill to establish the Great Basin National Heritage Route in the States of Nevada and Utah.

S. 263

At the request of Mr. AKAKA, the names of the Senator from Kentucky (Mr. BUNNING) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. 263, a bill to provide for the protection of paleontological resources on Federal lands, and for other purposes.

S. 285

At the request of Mr. BOND, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 285, a bill to reauthorize the Children's Hospitals Graduate Medical Education Program.

S. 291

At the request of Mr. ENSIGN, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 291, a bill to require the withholding of United States contributions to the United Nations until the President certifies that the United Nations is cooperating in the investigation of the United Nations Oil-for-Food Program.

S. 317

At the request of Mr. FEINGOLD, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 317, a bill to protect privacy by limiting the access of the Government to library, bookseller, and other personal records for foreign intelligence and counterintelligence purposes.

S. RES. 8

At the request of Ms. COLLINS, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. Res. 8, a resolution expressing the sense of the Senate regarding the maximum amount of a Federal Pell Grant.

S. RES. 37

At the request of Mrs. MURRAY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. Res. 37, a resolution designating the week of February 7 through February 11, 2005, as ''National School Counseling Week''.

S. RES. 40

At the request of Ms. LANDRIEU, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. Res. 40, a resolution supporting the goals and ideas of National Time Out Day to promote the adoption of the Joint Commission on Accreditation of Healthcare Organizations' universal protocol for preventing errors in the operating room.

AMENDMENT NO. 2

At the request of Mr. KENNEDY, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of amendment No. 2 proposed to S. 5, a bill to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. AKAKA (for himself, Mr. BINGAMAN, Mr. SARBANES, Mr. DAYTON, and Mr. DURBIN):

S. 324. A bill to provide additional protections for recipients of the earned income tax credit; to the Committee on Finance.

Mr. AKAKA. Mr. President, I rise to introduce the Taxpayer Abuse Prevention Act. Earned income tax credit, EITC, benefits intended for working families are significantly reduced by the use of refund anticipation loans, RALs, which typically carry triple digit interest rates.

According to the Brookings Institution, an estimated $1.9 billion intended to assist low-income families was received by commercial tax preparers and affiliated national banks to pay for tax assistance, electronic filing of returns, and high-cost refund loans in 2002. Fifty-seven percent of consumers who received RALs in 2003 earned the EITC. The Children's Defense Fund recently conducted a review of EITC refunds in eight states and the District of Columbia. In Texas, it is estimated that EITC families lost an estimated $251 million in tax preparation fees and high interest loans. EITC families had an estimated $82.6 million diverted to tax preparers in Ohio.

The interest rates and fees charged on RALs are not justified because of the short length of time that these loans are outstanding and the minimal risk they present. These loans carry little risk because of the Debt Indicator program.

The Debt Indicator, DI, is a service provided by the Internal Revenue Service, IRS, that informs the lender whether or not an applicant owes Federal or state taxes, child support, student loans, or other Government obligations, which assists the tax preparer in ascertaining the applicant's ability to obtain their full refund so that the RAL is repaid. The Department of the Treasury should not be facilitating these predatory loans that allow tax preparers to reap outrageous profits by exploiting working families.

Unfortunately too many working families are susceptible to predatory lending because they are left out of the financial mainstream. Between 25 and 56 million adults are unbanked, or not using mainstream, insured financial institutions. The unbanked rely on alternative financial service providers to obtain cash from checks, pay bills, send remittances, utilize payday loans, and obtain credit. Many of the unbanked are low- and moderate-income families that can ill afford to have their earnings unnecessarily diminished by their reliance on these high-cost and often predatory financial services. In addition, the unbanked are unable to save securely to prepare for the loss of a job, a family illness, a down payment on a first home, or education expenses.

My bill will protect consumers against predatory loans, reduce the involvement of the Department of the Treasury in facilitating the exploitation of taxpayers, and expand access to opportunities for saving and lending at mainstream financial services.

My bill prohibits refund anticipation loans that utilize EITC benefits. Other Federal benefits, such as Social Security, have similar restrictions to ensure that the beneficiaries receive the intended benefit.

My bill also limits several of the objectionable practices of RAL providers. It will prohibit lenders from using tax refunds to collect outstanding obligations for previous RALs. In addition, mandatory arbitration clauses for RALs that utilize Federal tax refunds would be prohibited to ensure that consumers have the ability to take future legal action if necessary.

I am deeply troubled that the Department of the Treasury plays such a prominent role in the facilitation and subsequent promotion of refund anticipation loans. In 1995, the use of the DI was suspended because of massive fraud in e-filed returns with RALs. After the program was discontinued, RAL participation declined. The use of the DI was reinstated in 1999, according to H&R Block, to ''assist with screening for electronic filing fraud and is also expected to substantially reduce refund anticipation loan pricing.'' Although RAL prices were expected to go down as a result of the reinstatement of the DI, this has not occurred. Use of the Debt Indicator should once again be stopped. The DI is helping tax preparers make excessive profits from low- and moderate-income taxpayers who utilize RALs. The IRS should not be aiding efforts that take the earned benefit away from low-income families and allow unscrupulous preparers to take advantage of low-income taxpayers. My bill terminates the DI program. In addition, this bill removes the incentive to meet congressionally mandated electronic filing goals by facilitating the exploitation of taxpayers. My bill would exclude any electronically filed tax returns resulting in tax refunds distributed by refund anticipation loans from being counted towards the goal established by the IRS Restructuring and Reform Act of 1998, which is to have at least 80 percent of all returns filed electronically by 2007.

Mr. President, my bill also expands access to mainstream financial services. Electronic Transfer Accounts, ETA, are low-cost accounts at banks and credit unions intended for recipients of certain Federal benefit payments. Currently, ETAs are provided for recipients of other Federal benefits such as Social Security payments. My bill expands the eligibility for ETAs to include EITC benefits. These accounts will allow taxpayers to receive direct deposit refunds into an account without the need for a refund anticipation loan.

Furthermore, my bill would mandate that low- and moderate-income taxpayers be provided opportunities to open low-cost accounts at federally insured banks or credit unions via appropriate tax forms. Providing taxpayers with the option of opening a bank or credit union account through the use of tax forms provides an alternative to RALs and immediate access to financial opportunities found at banks and credit unions.

I thank my colleagues, Senators BINGAMAN, SARBANES, DAYTON, and DURBIN for cosponsoring this legislation. I also thank Representative JAN SCHAKOWSKY for introducing the companion legislation in the other body.

I ask unanimous consent that the text of the Taxpayer Abuse Prevention Act, support letters and an accompanying fact sheet from the Association of Community Organizations for Reform, the Children's Defense Fund, the Consumer Federation of America, Consumers Union, the National Consumer Law Center, the Center for Responsible Lending, and the text of the national summary of the refund anticipation studies done by the Children's Defense Fund be printed in the RECORD.

I urge my colleagues to support this important legislation that will restrict predatory RALs and expand access to mainstream financial services.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 324

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Taxpayer Abuse Prevention Act''.

SEC. 2. PREVENTION OF DIVERSION OF EARNED INCOME TAX CREDIT BENEFITS.

(a) IN GENERAL.—Section 32 of the Internal Revenue Code of 1986 (relating to earned income tax credit) is amended by adding at the end the following new subsection:

''(n) PREVENTION OF DIVERSION OF CREDIT BENEFITS.—The right of any individual to any future payment of the credit under this section shall not be transferable or assignable, at law or in equity, and such right or any moneys paid or payable under this section shall not be subject to any execution, levy, attachment, garnishment, offset, or other legal process except for any outstanding Federal obligation. Any waiver of the protections of this subsection shall be deemed null, void, and of no effect.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 3. PROHIBITION ON DEBT COLLECTION OFFSET.

(a) IN GENERAL.—No person shall, directly or indirectly, individually or in conjunction or in cooperation with another person, engage in the collection of an outstanding or delinquent debt for any creditor or assignee by means of soliciting the execution of, processing, receiving, or accepting an application or agreement for a refund anticipation loan or refund anticipation check that contains a provision permitting the creditor to repay, by offset or other means, an outstanding or delinquent debt for that creditor from the proceeds of the debtor's Federal tax refund.

(b) REFUND ANTICIPATION LOAN.—For purposes of subsection (a), the term ''refund anticipation loan'' means a loan of money or of any other thing of value to a taxpayer because of the taxpayer's anticipated receipt of a Federal tax refund.

(c) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act.

SEC. 4. PROHIBITION OF MANDATORY ARBITRATION.

(a) IN GENERAL.—Any person that provides a loan to a taxpayer that is linked to or in anticipation of a Federal tax refund for the taxpayer may not include mandatory arbitration of disputes as a condition for providing such a loan.

(b) EFFECTIVE DATE.—This section shall apply to loans made after the date of the enactment of this Act.

SEC. 5. TERMINATION OF DEBT INDICATOR PROGRAM.

The Secretary of the Treasury shall terminate the Debt Indicator program announced in Internal Revenue Service Notice 99–58.

SEC. 6. DETERMINATION OF ELECTRONIC FILING GOALS.

(a) IN GENERAL.—Any electronically filed Federal tax returns, that result in Federal tax refunds that are distributed by refund anticipation loans, shall not be taken into account in determining if the goals required under section 2001(a)(2) of the Restructuring and Reform Act of 1998 that the Internal Revenue Service have at least 80 percent of all such returns filed electronically by 2007 are achieved.

(b) REFUND ANTICIPATION LOAN.—For purposes of subsection (a), the term ''refund anticipation loan'' means a loan of money or of any other thing of value to a taxpayer because of the taxpayer's anticipated receipt of a Federal tax refund.

SEC. 7. EXPANSION OF ELIGIBILITY FOR ELECTRONIC TRANSFER ACCOUNTS.

(a) IN GENERAL.—The last sentence of section 3332(j) of title 31, United States Code, is amended by inserting ''other than any payment under section 32 of such Code'' after ''1986''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after the date of the enactment of this Act.

SEC. 8. PROGRAM TO ENCOURAGE THE USE OF THE ADVANCE EARNED INCOME TAX CREDIT.

(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary of the Treasury shall, after consultation with such private, nonprofit, and governmental entities as the Secretary determines appropriate, develop and implement a program to encourage the greater utilization of the advance earned income tax credit.

(b) REPORTS.—Not later than the date of the implementation of the program described in subsection (a), and annually thereafter, the Secretary of the Treasury shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the elements of such program and progress achieved under such program.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as are necessary to carry out the program described in this section. Any sums so appropriated shall remain available until expended.

SEC. 9. PROGRAM TO LINK TAXPAYERS WITH DIRECT DEPOSIT ACCOUNTS AT FEDERALLY INSURED DEPOSITORY INSTITUTIONS.

(a) ESTABLISHMENT OF PROGRAM.—Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall enter into cooperative agreements with federally insured depository institutions to provide low- and moderate-income taxpayers with the option of establishing low-cost direct deposit accounts through the use of appropriate tax forms.

(b) FEDERALLY INSURED DEPOSITORY INSTITUTION.—For purposes of this section, the term ''federally insured depository institution'' means any insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) and any insured credit union (as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752)).

(c) OPERATION OF PROGRAM.—In providing for the operation of the program described in subsection (a), the Secretary of the Treasury is authorized—

(1) to consult with such private and nonprofit organizations and Federal, State, and local agencies as determined appropriate by the Secretary, and

(2) to promulgate such regulations as necessary to administer such program.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as are necessary to carry out the program described in this section. Any sums so appropriated shall remain available until expended.

NATIONAL CONSUMER LAW CENTER INC,
Boston, MA, February 7, 2005.

Hon. DANIEL K. AKAKA,
U.S. Senate,
Washington, DC.

DEAR SENATOR AKAKA: The Association of Community Organizations for Reform Now (ACORN), Center for Responsible Lending, Children's Defense Fund, Consumer Federation of America, Consumers Union, and National Consumer Law Center (on behalf of its low-income clients), write to support your bill, the ''Taxpayer Abuse Prevention Act.'' By prohibiting lenders from making loans against the Earned Income Tax Credit, this bill would greatly reduce the scope of abuses caused by refund anticipation loans (RALs), which carry effective annualized interest rates of about 40% to over 700%.

According to IRS data, 57% of consumers who received RALs in 2003 were beneficiaries of the Earned Income Tax Credit. These EITC recipients paid about $740 million in loan and ''administrative'' fees for RALs. These fees divert hundreds of millions of EITC dollars, paid out of the U.S. Treasury, into the coffers of multimillion dollar commercial preparation chains and big banks. It's time to stop lenders from making high cost, abusive loans using the precious dollars intended to support working poor families.

Furthermore, we support the ''Taxpayer Abuse Prevention Act'' for its provisions that halt several of the most egregious practices of RAL lenders, such as seizing taxpayers' tax refunds as a form of debt collection and slipping in mandatory arbitration clauses, which leave RAL consumers without their day in court. Moreover, we appreciate the termination of the IRS Debt Indicator program, which would stop the IRS's practice of sharing taxpayer's personal financial information in order to make RALs more profitable for lenders. Finally, we applaud the provisions of the bill that support linking unbanked taxpayers with bank accounts, such as the provision to permit them to open Electronic Transaction Accounts to receive federal tax refunds.

Thank you again for all your efforts to combat taxpayer abuse by the RAL industry.

Sincerely,

Maude Hurd, National President Association of Community Organizations for Reform Now; Jean Ann Fox, Director of Consumer Protection, Consumer Federation of America; Chi Chi Wu, Staff Attorney, National Consumer Law Center; Deborah Cutler-Ortiz, Director of Family Income, Children's Defense Fund; Susanna Montezemolo, Legislative Representative, Consumers Union; Yolanda McGill, Senior Policy Counsel, Center for Responsible Lending.

HOW THE TAXPAYER ABUSE PREVENTION ACT ADDRESSES THE WORST ASPECT OF REFUND ANTICIPATION LOANS

What are Refund Anticipation Loans (RALs)?

Refund anticipation loans (RALs) are high cost short-term loans secured by taxpayers' expected tax refunds. To get a RAL, consumers pay:

A loan fee to the lender, ranging from about $30 to $115 in 2005.

A fee for commercial tax preparation, typically around $120;

In some cases, a fee to the commercial preparer to process the RAL, sometimes called a ''administrative'', ''application'', or ''document preparation'' fee, around $30;

Who gets RALs?

Over 12 million taxpayers got RALs in 2003, according to the latest available data from IRS, costing taxpayers an estimated $1.4 billion dollars. Nearly 80% of these taxpayers are low-income, making less than $35,000 per year. Over half taxpayers who get RALs receive the Earned Income Tax Credit (EITC). The EITC is a tax benefit for working people who earn low or moderate incomes. It reduces the tax burden on these working families, boosting millions of households out of poverty. EITC recipients are disproportionately represented in the ranks of those who get RALs, since these taxpayers make up just 17% of the taxpayer population. RALs cost EITC recipients $740 million in loan and application/administrative fees, plus these EITC recipients paid nearly an estimated $1 billion in tax preparation and check cashing fees.

What are some of the problems with RALs?

RALs drain hundreds of millions in EITC benefits, and diminish the EITC's poverty-fighting power.

The Taxpayer Abuse Prevention Act prohibits RALs made against EITC funds. RAL contracts permit a lender to grab a taxpayer' refund to repay any outstanding RAL debt, even if the debt was to another lender.

The Taxpayer Abuse Prevention Act prohibits debt collection from a taxpayer's refund. RAL contracts contain anti-consumer mandatory arbitration clauses that deprive taxpayers of their day in court if they have a problem with their RALs.

The Taxpayer Abuse Prevention Act prohibits mandatory arbitration clauses in RAL contracts. The IRS helps increase profits for RAL lenders by sharing taxpayer's personal financial information in the form of the Debt Indicator, which tells tax preparers and RAL lenders when a tax refund offset exists.

The Taxpayer Abuse Prevention Act terminates the Debt Indicator program, ensuring that IRS resources are not used to help the bottom line of RAL lenders.

Isn't this denying EITC taxpayers an option to get their refund money at tax time?

RALs cost an enormous amount for what is essentially a loan of less than two weeks, draining billions for a mostly useless product. Because they are such short term loans, the RAL loan fee translates into effective annualized interest rates of about 40% to over 700%, or 70% to over 1700% if administrative fees are included. If the taxpayer's refund is reduced or denied by the IRS, the taxpayer is on the hook to repay the loan—a tough task for the low-income taxpayers who mostly get RALs.

The EITC is money paid out of the federal Treasury to make sure working families are lifted out of poverty. Other similar government programs have longstanding similar prohibitions against making a loan against those benefits. For example, the Social Security Act, 42 U.S.C. 407(a), prohibits lenders from seizing, garnishing, attaching, taking an assignment in or securing a loan against Social Security benefits. The Taxpayer Abuse Prevention Act prohibition's against RALs secured by the EITC was modeled on this provision of the Social Security Act, with the addition of a prohibition against offsets of EITC benefits.

CHILDREN'S DEFENSE FUND,
Washington, DC, February, 2005.

KEEPING WHAT THEY'VE EARNED: WORKING FAMILIES AND TAX CREDITS

As the height of tax-filing season approaches, Americans are being bombarded with advertisements from commercial tax preparers on high-cost options for getting their taxes prepared. Many of these commercial tax preparers focus on low-income neighborhoods and lure their clients with the promise of ''Fast Money,'' Money Now'' or ''Rapid Refunds.''

Two out of every three people nationwide who claim the Earned Income Tax Credit (EITC) use commercial tax preparers to prepare their returns. These low-income families end up paying high preparation fees and many of them take out high-interest loans against their expected refund. Unfortunately, many of these low- to moderate-income working Americans are unaware of other options—including free tax preparation through Volunteer Income Tax Assistance sites.

Enacted in 1975, the EITC is our nation's largest and most effective anti-poverty program, generating billions of dollars to help

families meet their most basic needs. Research shows families use their refunds to pay bills such as utilities and rent, to purchase basic household commodities and clothing, to cover the costs of tuition, and some even reserve parts of their EITC for savings. In sum, EITC helps low- to moderate-income families make ends meet while stimulating the local economy.

THE FULL VALUE OF THE PROGRAM IS NOT REACHING WORKING FAMILIES

Unfortunately, low-income taxpayers lost over $690 million in loan charges in 2003 and a total of $2.3 billion if the cost of commercial tax preparation is included. These costs can include tax preparation, documentation preparation or application handling fees, electronic filing fees and a Refund Anticipation Loan (RALs). The RALs are loans secured by tax-payer's tax refund, including the EITC.

In middle and upper income communities, consumers have access to loans and credit cards at competitive rates, and branch offices of mainstream banks and savings and loans offer a full array of banking services. Low-income consumers are forced to patronize fringe financial service providers that charge exorbitant rates for personal loans and limited banking services.

RALS TARGET HIGH POVERTY AREAS

Recent research has shown that low-income taxpayers who claim the EITC represent the majority of the marketplace for RALs. The product's popularity varies substantially across the U.S., but the most recent Internal Revenue Service figures indicate that 79 percent of RAL recipients in 2003 had adjusted gross incomes of $35,000 or less. Minority consumers are heavier RAL users. Twenty-eight percent of African Americans and 21 percent of Latino taxpayers told surveyors they received RALs compared with 17 percent of White consumers.

The Children's Defense Fund's review of eight states and the District of Columbia reveals that almost $960 million dollars has been siphoned away from low-income tax payers in these states, because of tax preparation and high interest loan fees.

California lost an estimated $236.5 million.

Minnesota lost and estimated 5.1 million.

Mississippi lost an estimated $54 million.

New York lost an estimated $182 million.

Ohio lost an estimated $82.6 million.

South Carolina lost an estimated $57 million.

Tennessee lost an estimated $57 million.

Texas lost an estimated $251 million.

Washington D.C. lost an estimated $5.8 million.

THE APPEAL OF RALS AND WHAT TAXPAYERS AREN'T TOLD

Many low-income families may feel they have little choice but to take out a RAL. First, many are unlikely to have $100 on hand to pay for tax preparation fees. In setting up the loan, the commercial tax preparers deduct these fees first, relieving the families from the need to find alternative resources. Second, and probably more significantly, RALs enable families to access the amount of money they expect from their refunds within 48 hours, rather than having to wait for the IRS to process their returns. This wait could last 6–8 weeks if the family does not file electronically and does not have a bank account to accept an electronic transfer of the refund. Indeed, many low-income families lack bank accounts. According to the Federal Reserve, one out of four families with incomes less than $25,000 does not have a bank account of any kind.

RECOMMENDATIONS

1. Simplify the rules and process. Working families should be able to complete their own taxes, without having to pay for professional assistance. Federal and state laws, especially those that govern working families income taxes, need to be simplified and federal and state tax credit programs need to be coordinated.

2. Ensure that free tax assistance for EITC families is available, accessible and well-publicized. Very few people know that free tax assistance for low-income families is available at Volunteer Income Tax Assistance sites, Tax Counseling for the Elderly, AARP and other free tax preparation sites in many communities, but very few people know this. The community groups and non-profit organizations that operate many of these sites need help. Different levels of government, employers, foundations, churches and other community groups can all provide financial assistance, make site locations available, donate computers for electronic filing, help recruit volunteers and conduct outreach with potential EITC families. EITC families should also be made aware that there are free or low-cost tax filing websites available that they can access through the IRS and other websites.

3. Strengthen consumer protection and education. There is little regulation of tax preparers even though they are entrusted with personal information and expected to stay abreast of many complex tax laws. The federal and state governments could do more to regulate and monitor the practices of paid preparers as well as the national banks with which they partner to offer RALs. Families need to understand what they can expect of their tax preparer, as well as the drawbacks and hidden costs of RALs. On the federal level, the Taxpayer Abuse Prevention Act (TAPA) legislation introduced by Senators Akaka (D-HI) and Bingaman (D-NM) and Representative Schakowsky (DIL) would prohibit the use of RALs against the EITC.

4. Connect more low-income families with fmancial institutions and increase their financial literacy. Having a tax refund electronically deposited directly into a bank account speeds up the turnaround time significantly, but one out of four families with incomes less than $25,000 does not have a bank account. Recent efforts to partner free tax assistance with financial institutions have been successful.

CHILDREN NEED ADEQUATE FAMILY INCOME IF THEY ARE TO MEET THEIR MOST BASIC NEEDS, FROM DIAPERS TO DOCTORS TO HEALTHY FOOD AND SAFE HOUSING

Whether a child will flounder or flourish can hinge on things that money buys: good quality child care, eyeglasses to read the chalkboard, a little league fee, a musical instrument, or simply the peace of mind that lets parents create a warm and nurturing family life free from worries about eviction or hunger.

Yet almost 13 million children are poor and millions more live in struggling families with incomes just above the official poverty line. Giving children economic security means providing stronger tax credits for low-paid working families and a more reliable safety net when jobs fall short. It also means making more effective use of available programs and ensuring that families have access to the tax credits and food, health, and other benefits that already exist.

The millions of dollars lost by working families to commercial tax preparers is money that could have been used to help provide their children with a safe home, nutritious meals and a good education.

These hardworking families are trying to lift themselves out of poverty but are falling victim to targeted marketing tactics that are taking their hard-earned money. The Children's Defense Fund's efforts to educate and assist families that may otherwise, fall prey to these unconscionable sales tactics can make a difference in the lives of the working poor.

By Mr. SANTORUM (for himself and Mrs. LINCOLN):

S. 327. A bill to amend the Internal Revenue Code of 1986 to expand the tip credit to certain employers and to promote tax compliance; to the Committee on Finance.

Mr. SANTORUM. Mr. President, I would like to introduce, along with my colleague, Senator LINCOLN of Arkansas, the Small Business Tax Equalization and Compliance Act of 2005, which would amend the tax code to expand the tip credit to certain employers and to promote tax compliance.

This bill addresses an unfair aspect of our current tax code that adversely affects tens of thousands of small businesses across the country. Under current law, certain small business owners are required to pay Social Security and Medicare (FICA) taxes on tips their employees earn, despite having no control over or share of the tip earnings. This legislation will allow these small business owners to claim a tax credit against their income taxes for their share of the FICA tax paid on their employees' tips. The Small Business Tax Equalization and Compliance Act would place cosmetology service owners on equal footing with other similarly tip-intensive businesses such as the restaurant and food delivery industries that already benefit from a similar tax credit.

I ask unanimous consent that the text of the bill be printed in the RECORD, and am hopeful my colleagues will join me in support of this legislation.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 327

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Small Business Tax Equalization and Compliance Act of 2005''.

SEC. 2. EXPANSION OF CREDIT FOR PORTION OF SOCIAL SECURITY TAXES PAID WITH RESPECT TO EMPLOYEE TIPS.

(a) EXPANSION OF CREDIT TO OTHER LINES OF BUSINESS.—Paragraph (2) of section 45B(b) of the Internal Revenue Code of 1986 is amended to read as follows:

''(2) APPLICATION ONLY TO CERTAIN LINES OF BUSINESS.—In applying paragraph (1), there shall be taken into account only tips received from customers or clients in connection with—

''(A) the providing, delivering, or serving of food or beverages for consumption if the tipping of employees delivering or serving food or beverages by customers is customary, or

''(B) the providing of any cosmetology service for customers or clients at a facility licensed to provide such service if the tipping of employees providing such service is customary.''.

(b) DEFINITION OF COSMETOLOGY SERVICE.—Section 45B of such Code is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

''(c) COSMETOLOGY SERVICE.—For purposes of this section, the term 'cosmetology service' means—

''(1) hairdressing,

''(2) haircutting,

''(3) manicures and pedicures,

''(4) body waxing, facials, mud packs, wraps, and other similar skin treatments, and

''(5) any other beauty related service provided at a facility at which a majority of the services provided (as determined on the basis of gross revenue) are described in paragraphs (1) through (4).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to tips received for services performed after December 31, 2004.

SEC. 3. INFORMATION REPORTING AND TAXPAYER EDUCATION FOR PROVIDERS OF COSMETOLOGY SERVICES.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 is amended by inserting after section 6050T the following new section:

''SEC. 6050U. RETURNS RELATING TO COSMETOLOGY SERVICES AND INFORMATION TO BE PROVIDED TO COSMETOLOGISTS.

''(a) IN GENERAL.—Every person (referred to in this section as a 'reporting person') who—

''(1) employs 1 or more cosmetologists to provide any cosmetology service,

''(2) rents a chair to 1 or more cosmetologists to provide any cosmetology service on at least 5 calendar days during a calendar year, or

''(3) in connection with its trade or business or rental activity, otherwise receives compensation from, or pays compensation to, 1 or more cosmetologists for the right to provide cosmetology services to, or for cosmetology services provided to, third-party patrons, shall comply with the return requirements of subsection (b) and the taxpayer education requirements of subsection (c).

''(b) RETURN REQUIREMENTS.—The return requirements of this subsection are met by a reporting person if the requirements of each of the following paragraphs applicable to such person are met.

''(1) EMPLOYEES.—In the case of a reporting person who employs 1 or more cosmetologists to provide cosmetology services, the requirements of this paragraph are met if such person meets the requirements of sections 6051 (relating to receipts for employees) and 6053(b) (relating to tip reporting) with respect to each such employee.

''(2) INDEPENDENT CONTRACTORS.—In the case of a reporting person who pays compensation to 1 or more cosmetologists (other than as employees) for cosmetology services provided to third-party patrons, the requirements of this paragraph are met if such person meets the applicable requirements of section 6041 (relating to returns filed by persons making payments of $600 or more in the course of a trade or business), section 6041A (relating to returns to be filed by service-recipients who pay more than $600 in a calendar year for services from a service provider), and each other provision of this subpart that may be applicable to such compensation.

''(3) CHAIR RENTERS.—

''(A) IN GENERAL.—In the case of a reporting person who receives rent or other fees or compensation from 1 or more cosmetologists for use of a chair or for rights to provide any cosmetology service at a salon or other similar facility for more than 5 days in a calendar year, the requirements of this paragraph are met if such person—

''(i) makes a return, according to the forms or regulations prescribed by the Secretary, setting forth the name, address, and TIN of each such cosmetologist and the amount received from each such cosmetologist, and

''(ii) furnishes to each cosmetologist whose name is required to be set forth on such return a written statement showing—

''(I) the name, address, and phone number of the information contact of the reporting person,

''(II) the amount received from such cosmetologist, and

''(III) a statement informing such cosmetologist that (as required by this section), the reporting person has advised the Internal Revenue Service that the cosmetologist provided cosmetology services during the calendar year to which the statement relates.

''(B) METHOD AND TIME FOR PROVIDING STATEMENT.—The written statement required by clause (ii) of subparagraph (A) shall be furnished (either in person or by first-class mail which includes adequate notice that the statement or information is enclosed) to the person on or before January 31 of the year following the calendar year for which the return under clause (i) of subparagraph (A) is to be made.

''(c) TAXPAYER EDUCATION REQUIREMENTS.—In the case of a reporting person who is required to provide a statement pursuant to subsection (b), the requirements of this subsection are met if such person provides to each such cosmetologist annually a publication, as designated by the Secretary, describing—

''(1) in the case of an employee, the tax and tip reporting obligations of employees, and

''(2) in the case of a cosmetologist who is not an employee of the reporting person, the tax obligations of independent contractors or proprietorships.

The publications shall be furnished either in person or by first-class mail which includes adequate notice that the publication is enclosed.

''(d) DEFINITIONS.—For purposes of this section—

''(1) COSMETOLOGIST.—

''(A) IN GENERAL.—The term 'cosmetologist' means an individual who provides any cosmetology service.

''(B) ANTI-AVOIDANCE RULE.—The Secretary may by regulation or ruling expand the term 'cosmetologist' to include any entity or arrangement if the Secretary determines that entities are being formed to circumvent the reporting requirements of this section.

''(2) COSMETOLOGY SERVICE.—The term 'cosmetology service' has the meaning given to such term by section 45B(c).

''(3) CHAIR.—The term 'chair' includes a chair, booth, or other furniture or equipment from which an individual provides a cosmetology service (determined without regard to whether the cosmetologist is entitled to use a specific chair, booth, or other similar furniture or equipment or has an exclusive right to use any such chair, booth, or other similar furniture or equipment).

''(e) EXCEPTIONS FOR CERTAIN EMPLOYEES.—Subsection (c) shall not apply to a reporting person with respect to an employee who is employed in a capacity for which tipping (or sharing tips) is not customary.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 6724(d)(1)(B) of such Code (relating to the definition of information returns) is amended by redesignating clauses (xiii) through (xviii) as clauses (xiv) through (xix), respectively and by inserting after clause (xii) the following new clause:

''(xiii) section 6050U(a) (relating to returns by cosmetology service providers).''.

(2) Section 6724(d)(2) of such Code is amended—

(A) by striking ''or'' at the end of subparagraph (AA),

(B) by striking the period at the end of subparagraph (BB) and inserting '', or'', and

(C) by inserting after subparagraph (BB) the following new subparagraph:

''(CC) subsections (b)(3)(A)(ii) and (c) of section 6050U (relating to cosmetology service providers) even if the recipient is not a payee.''.

(3) The table of sections for subpart B of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 is amended by adding after section 6050T the following new item:

''Sec. 6050U. Returns relating to cosmetology services and information to be provided to cosmetologists.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years after 2004.

By Mr. ROCKEFELLER (for himself and Mr. LEAHY):

S. 329. A bill to amend title 11, United States Code, to increase the amount of unsecured claims for salaries and wages given priority in bankruptcy, to provide for cash payments to retirees to compensate for lost health insurance benefits resulting from the bankruptcy of their former employer, and for other purposes; to the Committee on the Judiciary.

Mr. ROCKEFELLER. Mr. President, over the last several years as the economy came down from the high of the 1990s, we have seen how devastating it can be for workers when their companies declare bankruptcy. From the enormous Enron bankruptcy at the end of 2001 to the bankruptcies of Wheeling-Pitt and then Weirton Steel in my own home State, every bankruptcy has brought heartache for workers who had dedicated themselves to their employers. In many cases, employees and retirees have very limited ability to recover the wages, severance, or benefits they are due when their companies seek protection from creditors.

Workers deserve better. So today I am introducing the Bankruptcy Fairness Act to strengthen workers' rights in bankruptcy and to provide greater authority to bankruptcy courts to ensure a fair distribution of assets. I am very pleased that Senator LEAHY, the distinguished ranking Democrat on the Senate Judiciary Committee is an original cosponsor of this bill.

Specifically, the bill will do three things. It will ensure that retirees whose promised health insurance is taken away receive at least some compensation for their lost benefits. Second, my legislation would allow employees to recover more of the backpay or other compensation that is owed to them at the time of the bankruptcy. And lastly, it would provide bankruptcy courts the authority to recover company assets in cases where company managers flagrantly paid excessive compensation to favored employees just before declaring bankruptcy.

I first introduced this legislation in the 108th Congress. I am reintroducing

it because this issue is as important in West Virginia today as it has ever been. I am hopeful that as Congress considers any changes to bankruptcy law we will debate how we can better protect workers whose companies file for bankruptcy. I do not pretend to have all the answers. But I do know that we must do a better job of easing the burden that bankruptcy imposes on employees and retirees. And I believe that we can do so in creative ways that do not make it more difficult for companies to successfully reorganize and emerge from bankruptcy. I look forward to the ideas and suggestions of my colleagues.

In the simplest economic terms, employees sell their labor to their companies. They toil away in offices, plants, factories, mills, and mines, because they are promised that at the end of the day they will receive certain compensation. One of the most important types of compensation that workers earn is the right to enjoy certain benefits when they retire. Pensions, life insurance, or health care coverage are earned by workers in addition to their weekly paychecks. Yet, sadly we have seen many companies in the last few years abandon these promises when they declare bankruptcy.

More and more we see companies taking the easy road to profitability by abandoning commitments that they made to workers. For retirees who have planned for their golden years based on the benefits they have earned, losing health insurance can be a devastating blow. Retirees must have the right to reasonable compensation if the company seeks to break its promise to provide health insurance. Under current law, these retirees receive what is called a general unsecured claim for the value of the benefits they lost. As any creditor will tell you, a general unsecured claim is essentially worthless in most bankruptcies. It means you are at the end of the line, and there are not enough assets to go around. This law allows companies to essentially rescind compensation that retirees have earned with virtually no cost to the company. Of course that is a great deal for the company, but it is spectacularly unfair to the retirees.

Recognizing that so-called legacy costs are often an impossible burden for a company that is trying to emerge from bankruptcy, my legislation would still allow companies in some circumstances to alter the health coverage offered to retirees. However, it would require that the company pay a minimum level of compensation to retirees. Under this bill, each retiree would be entitled to a payment equal to the cost of purchasing comparable health insurance for a period of 18 months. Of course, 18 months of health insurance coverage is a lot less than many of these retirees are losing, but it can ease the transition as retirees make alternative plans, and it will discourage companies from thinking that terminating retiree health coverage is an easy solution. The retirees would still be entitled to a general unsecured claim for the value of the benefits lost in excess of this one time payment. This change would ensure that retirees, while still not being made whole on lost benefits, will at least receive some compensation for the broken promises.

Many active workers, too, have a difficult time recovering what is owed to them by their employer when the company files bankruptcy. Under current law, employees are entitled to a priority claim of up to $4,925. But that figure is usually not enough to cover the back-wages, vacation time, severance pay, or benefit payments that the employees are owed for work done prior to the bankruptcy. Congress needs to update the amount of the priority claim to ensure that more workers are able to receive what is rightfully theirs. The Bankruptcy Fairness Act would establish a priority claim for the first $15,000 of compensation owed to an employee.

In most cases, employees have been working their hardest to help the company avoid the nightmare of bankruptcy, only to find that they will not be compensated for their services as promised. As we saw so clearly with the Enron case, employees are often left holding the bag when their company declares bankruptcy. In that case, employees were owed an average of $35,000 in back-wages, severance, and other promised compensation. They deserved to recover more than a mere $4,925 of what was owed them. Let me be clear, this bill does not establish any new obligation for a company to pay severance or other compensation to employees caught up in a company's bankruptcy. It merely ensures that employees can recover more of what is already owed to them through the bankruptcy process.

I understand that many creditors or investors are not able to recover what is rightfully owed to them in bankruptcy, but employees deserve protection that recognizes the unique nature of their dependence on their employer. Any smart investor diversifies his or her portfolio so that a bankruptcy at one company does not bankrupt the investor. Likewise, suppliers and creditors that do business with a company typically have many other clients. This is not the case with workers. They cannot diversify away the risk of working for a bankrupt company, and the financial hardship a bankruptcy brings is more devastating to the average worker than the average creditor or supplier.

Now, I know that some of my colleagues listening to this may be worrying that this legislation is insensitive to the needs of companies that are trying to reorganize in order to emerge from bankruptcy and go forward as successful businesses. I am fully aware that sometimes, too often in the real world, the bankruptcy process can help companies stay open and maintain jobs by restructuring obligations to creditors. Too many companies in West Virginia have had to go through the painful process of Chapter 11 reorganization. I completely understand the need to keep the factories open. And I have always worked side by side with companies to help them recover.

I will continue that important work, and I have included a provision in this bill to help bankrupt companies that are struggling to survive to recover assets that have been pilfered from the corporate coffers. In too many cases, company executives reward themselves even as their companies careen toward bankruptcy. The most egregious recent example is at Enron in 2001. In the days and weeks leading up to the bankruptcy filing, executives granted large bonuses to themselves and their favored employees. Millions of dollars were paid to a select group of employees just before the company declared bankruptcy. It is unconscionable that executives would grant themselves undeserved bonuses and then weeks later claim that the company did not have the resources to pay its rank and file employees.

My legislation provides bankruptcy courts greater authority to recover excessive compensation that was paid just prior to the bankruptcy filing. If the court finds that compensation was out of the ordinary course of business or was unjust enrichment, the court can recover those assets for the bankrupt company, ensuring that more creditors, employees, and retirees can receive what is rightfully owed to them by the company.

The reforms I have outlined are modest. They will not take the sting out of bankruptcy. By definition a bankruptcy is a failure, and it is painful for the company's employees, retirees, and business partners. But the Bankruptcy Fairness Act I am introducing today would make progress toward ensuring that bankruptcies are more fair to the workers who gave their time and energy and sweat to the company in exchange for certain promised compensation. And by helping a company recover assets that should not have been paid out as undeserved bonuses just before bankruptcy the bill ensures that more of a company's assets are paid to the employees, retirees, and creditors who are rightfully owed.

It is my hope that this legislation will receive serious consideration from my colleagues, and that this can open an important debate about how workers and retirees can be better protected from the ugly side of prolonged economic downturns. I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 329

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Bankruptcy Fairness Act''.

SEC. 2. FAIR TREATMENT OF COMPENSATION IN BANKRUPTCY.

(a) INCREASED PRIORITY CLAIM AMOUNT FOR EMPLOYEE WAGES AND BENEFITS.—Section 507(a) of title 11, United States Code, is amended—

(1) in paragraph (3)—

(A) by striking ''$4,925'' and inserting ''$15,000''; and

(B) by striking ''within 90 days''; and

(2) in paragraph (4)(B)(i), by striking ''$4,925'' and inserting ''$15,000''.

(b) RECOVERY OF EXCESSIVE COMPENSATION.—Section 547 of title 11, United States Code, is amended by adding at the end the following:

''(h) The court, on motion of a party of interest, may avoid any transfer of compensation made to a present or former employee, officer, or member of the board of directors of the debtor on or within 90 days before the date of the filing of the petition that the court finds, after notice and a hearing, to be—

''(1) out of the ordinary course of business; or

''(2) unjust enrichment.''.

SEC. 3. PAYMENT OF INSURANCE BENEFITS OF RETIREES.

(a) IN GENERAL.—Section 1114(j) of title 11, United States Code, is amended to read as follows:

''(j)(1) No claim for retiree benefits shall be limited by section 502(b)(7).

''(2)(A) Each retiree whose benefits are modified pursuant to subsection (e)(1) or (g) shall have a claim in an amount equal to the value of the benefits lost as a result of such modification. Such claim shall be reduced by the amount paid by the debtor under subparagraph (B).

''(B)(i) In accordance with section 1129(a)(13)(B), the debtor shall pay the retiree with a claim under subparagraph (A) an amount equal to the cost of 18 months of premiums on behalf of the retiree and the dependents of the retiree under section 602(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(3)), which amount shall not exceed the amount of the claim under subparagraph (A).

''(ii) If a retiree under clause (i) is not eligible for continuation coverage (as defined in section 602 of the Employee Retirement Income Security Act of 1974), the Secretary of Labor shall determine the amount to be paid by the debtor to the retiree based on the 18-month cost of a comparable health insurance plan.

''(C) Any amount of the claim under subparagraph (A) that is not paid under subparagraph (B) shall be a general unsecured claim.''.

(b) CONFIRMATION OF PLAN.—Section 1129(a)(13) of title 11, United States Code, is amended to read as follows:

''(13) The plan provides—

''(A) for the continuation after its effective date of the payment of all retiree benefits (as defined in section 1114), at the level established pursuant to subsection (e)(1) or (g) of section 1114, at any time before the confirmation of the plan, for the duration of the period the debtor has obligated itself to provide such benefits; and

''(B) that the holder of a claim under section 1114(j)(2)(A) shall receive from the debtor, on the effective date of the plan, cash equal to the amount calculated under section 1114(j)(2)(B).''.

(c) RULEMAKING.—The Secretary of Labor shall promulgate rules and regulations to carry out the amendments made by this section.

By Mr. ENSIGN (for himself, Mr. REID, Mr. BURNS, Mrs. FEINSTEIN, Mr. NELSON of Florida, Mr. CHAFEE, Mr. SUNUNU, Mr. DURBIN, and Mr. DAYTON):

S. 330. A bill to amend the Help America Vote Act of 2002 to require a voter-verified permanent record or hardcopy under title III of such Act, and for other purposes; to the Committee on Rules and Administration.

Mr. ENSIGN. Mr. President, in the November 2004 elections, Nevadans entered a new frontier for casting their votes. We became the first state in the nation to require that voter-verified paper audit trail printers be used with touch-screen voting machines.

Not only did our election go off without a hitch, but voters across Nevada left the polls with the knowledge that their vote would be counted and that their vote would be counted accurately.

I understand better than most the importance of the integrity of the ballot box. I was at the mercy of a paperless-machine election in my 1998 race for the U.S. Senate. When the votes were tallied with a difference of only a few hundred, I asked for a recount in Clark County, the only county at the time using electronic voting machines. The result of the recount was identical to the first count. That is because there was nothing to recount. After rerunning a computer program, the computer predictably produced the same exact tally.

I conceded that race and was elected to Nevada's other Senate seat in 2000. But that experience made me realize the importance of ensuring Americans that their votes will count—it is absolutely fundamental to our democracy.

That is why I led the fight for voter verification paper trails in the Help America Vote Act (HAVA) that President Bush signed into law in 2002. A voter-verified paper trail would allow voters to review a physical printout of their ballot and correct any errors before leaving the voting booth. This printout would be preserved at the polling place for use in any recounts. This is exactly what Nevadans experienced when they voted in November.

Unfortunately, the language that is contained in HAVA has not resolved this issue for most other states. Now, I am working to ensure voting integrity across the country. By introducing the Voting Integrity and Verification Act, I want to ensure that HAVA is clear—voters must be assured that their votes will be accurate and will be counted properly. A paper trail provides just such an assurance.

Technology has transformed the way we do many things—including voting. But we cannot simply sit on the sidelines and assume that our democracy will withstand such changes. We recently witnessed the birth of democracy in Afghanistan and Iraq and watched as citizens risked their lives to cast their votes. Our continued work to ensure that each vote counts here in the United States underscores the idea that we must always be vigilant in protecting democracy—whether it is brand new or more than 200 years old. The Voting Integrity and Verification Act protects democracy by protecting the sanctity of our vote.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 332. A bill to prohibit the retirement of F–117 Nighthawk stealth attack aircraft during fiscal year 2006; to the Committee on Armed Services.

Mr. DOMENICI. Mr. President, I rise to introduce a bill prohibiting retirement of F–117 stealth fighter aircraft during fiscal year 2006. I am also pleased my colleague, Senator BINGAMAN, has joined me as a cosponsor. The Department of Defense budget proposed for next year reduces operations and maintenance funds for the stealth fighter. As a result, ten aircraft would be retired. I believe this would be detrimental to our national security and so I offer a very simple bill to maintain the current F–117 force structure.

The mission of the stealth fighter is to strike highly important, highly defended enemy targets. Pilots from Holloman Air Force Base, NM have flown thousands of successful sorties while evading heavy air defenses because of the F–117's stealth capability. As I think most know, F–117s played a key role during operations in Serbia, in Operation Iraqi Freedom and in other dangerous theaters around the world. The F–117 has been this nation's preeminent first strike platform. And I would submit, that retiring nearly 20 percent of our proven stealth fighter fleet before new planes such as the F–22 and the Joint Strike Fighter enter the force is not prudent.

Last year, a similar budget request was made to reduce the F–117 fleet. I recommended that the Department of Defense delay such a decision until new stealth platforms enter the fleet. Both the Armed Services committee and the Defense Appropriations subcommittee agreed with my assessment and included language in their bills prohibiting the retirement. For fiscal year 2006 my goal remains the same: to retain the vital first-strike capability this Nation has come to rely upon for the immediate future.

I recognize that this is a time when our military forces are transforming to a different kind of force—one that is more agile. I also recognize that this will require new kinds of platforms and different force structures. But at a time when the world presents a number of challenges that may require use of stealth capability, I am committed to maintaining the current configuration of the F–117 fleet and I urge my colleagues to support this bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 332

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION ON RETIREMENT OF F–117 NIGHTHAWK STEALTH ATTACK AIRCRAFT.

No F–117 Nighthawk stealth attack aircraft in use by the Air Force during fiscal year 2005 may be retired during fiscal year 2006.

By Mr. DORGAN (for himself, Ms. SNOWE, Mr. GRASSLEY, Mr. KENNEDY, Mr. MCCAIN, Ms. STABENOW, Mr. CHAFEE, Mr. JEFFORDS, Mr. LOTT, Mr. DAYTON, Mrs. CLINTON, Mr. BINGAMAN, Mrs. BOXER, Mr. CONRAD, Mr. DURBIN, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. INOUYE, Mr. JOHNSON, Mr. KOHL, Mr. LEAHY, Mr. LEVIN, Mr. NELSON of Florida, Mr. OBAMA, Mr. PRYOR, Mr. SALAZAR, Mr. SARBANES, Mr. SCHUMER, and Ms. COLLINS):

S. 334. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the importation of prescription drugs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DORGAN. Mr. President, today, I am introducing my bipartisan prescription drug importation legislation, the Pharmaceutical Market Access and Drug Safety Act, along with Senators SNOWE, GRASSLEY, KENNEDY, MCCAIN, STABENOW, JEFFORDS and many others. In all, the bill has 28 cosponsors, and I expect we will add more cosponsors in the coming weeks and months.

I am particularly pleased that Finance Committee Chairman CHARLES GRASSLEY has joined forces with us on this year's bill. Chairman GRASSLEY has made a significant contribution to the drug importation debate and has provided invaluable assistance in ensuring that our bill complies with our country's trade obligations. Chairman GRASSLEY's support also helps to demonstrate the growing momentum in the Senate for a vote on our bipartisan drug importation legislation.

I am also glad that, in addition to being tri-partisan, this year's bill is also bicameral. Congresswoman JOANN EMERSON and Congressman SHERROD BROWN are introducing the companion to my bill in the House of Representatives today.

This is an issue whose time has come. By now, it is well-documented that American consumers pay by far the highest prices in the world for prescription medicines, and our citizens are desperate for relief. Earlier this month, we learned that prices on 31 of the top-50 bestselling drugs went up during the last two-month period. For instance, the price of the top-selling drug Lipitor has gone up 5 percent—double the inflation rate for all of 2004—in just the two months since November, 2004. Lipitor costs the American consumer nearly twice as much per pill as the Canadian consumer.

These recent price increases come at the expense of American consumers—especially those seniors and uninsured Americans who do not have health insurance coverage for prescription drugs. The Pharmaceutical Market Access and Drug Safety Act is a step that the Congress can take to put downward pressure on drug prices in our country. By some estimates, U.S. consumers could save up to $38 billion if they could purchase prescription medicines at the Canadian prices.

This year's bill is substantially similar to the bill that Senator SNOWE and I introduced last year but it has been refined in response to technical assistance we have received from various stakeholders. We have thoroughly and pro-actively addressed all of the safety issues that some have raised with respect to drug importation. The fact is that a system of drug importation, called parallel trade, has flourished with no safety problems within the European Union for the last two decades. I am convinced that if the Europeans can safely trade pharmaceuticals within Europe, the United States can safely do so, and our bill gives the Food and Drug Administration the authority and resources it needs to oversee such a system.

We simply cannot continue on our current course of inaction, and I want to put my colleagues on notice that I am determined to get a vote on this legislation this year on the Senate floor. The agreement that Senator SNOWE and I reached earlier this month with Majority Leader FRIST and new Health, Education, Labor, and Pensions Committee Chairman ENZI to hold a hearing specifically on the Dorgan-Snowe bill is a step in the right direction.

I am convinced that if the full Senate is given the opportunity to vote on our bill, it will pass with overwhelming bipartisan support. I look forward to continuing to work with my colleagues to get this legislation passed by Congress and sent to the President for his signature.

By Mr. SARBANES (for himself, Mr. WARNER, Mr. ALLEN, and Ms. MIKULSKI):

S. 336. A bill to direct the Secretary of the Interior to carry out a study of the feasibility of designating the Captain John Smith Chesapeake National Historic Watertrail as a national historic trail; to the Committee on Energy and Natural Resources.

Mr. SARBANES. Mr. President, today I am introducing legislation to initiate a study of the feasibility of designating the route of Captain John Smith's exploration of the Chesapeake Bay and its tributaries as a National Historic Trail. Joining me in sponsoring this legislation are my colleagues Senators WARNER, ALLEN and MIKULSKI.

Our system of National Historic Trails, NHTs, commemorate major routes of historic travel and mark major events which shaped American history. To date, 13 National Historic Trails have been established in the National Park Service including the Lewis and Clark, the Pony Express, Selma to Montgomery, and Trail of Tears National Historic Trails. To be designated as a National Historic Trail, a trail must meet three basic criteria: it must be nationally significant, have a documented route through maps or journals, and provide for recreational opportunities. In my judgment, the proposed Captain John Smith Chesapeake National Historic Watertrail meets all three criteria.

Captain John Smith was one of America's earliest explorers. His role in the founding of Jamestown, VA—the first permanent English settlement in North America—and in exploring the Chesapeake Bay region during the years 1607 to 1609 marks a defining period in the history of our Nation. His contemporaries and historians alike credit Smith's strong leadership with ensuring the survival of the fledgling colony and laying the foundation for the future establishment of our nation.

With a dozen men in a 30-foot open boat, Smith's expeditions in search of food for the new colony and the fabled Northwest Passage took him nearly 3,000 miles around the Chesapeake Bay and its tributaries from the Virginia capes to the mouth of the Susquehanna. On his voyages and as President of the Jamestown Colony, Captain Smith became the first point of contact for scores of Native American leaders from around the Bay region. His relationship with Pocahontas is now an important part of American folklore. Smith's notes describing the indigenous people he met and the Chesapeake Bay ecosystem are still widely studied by historians, environmental scientists, and anthropologists.

The remarkably accurate maps and charts that Smith made of his voyages into the Chesapeake Bay and its tributaries served as the definitive map of the region for nearly a century. His voyages, as chronicled in his journals, ignited the imagination of the Old World, and helped launch an era of adventure and discovery in the New World. Hundreds, and then thousands of people aspired to settle in what Smith described as one of '' the most pleasant places known, for large and pleasant navigable rivers, heaven and earth never agreed better to frame a place for man's habitation.'' Even today, his vivid descriptions of the Bay's abundance still serve as a benchmark for the health and productivity of the Bay.

With the 400th anniversary of the founding of Jamestown quickly approaching, the designation of this route as a national historic trail would be a tremendous way to celebrate an important part of our nation's story and serve as a reminder of John Smith's role in establishing the colony and opening the way for later settlements in the New World. It would also give recognition to the Native American settlements, culture and natural history of the 17th century Chesapeake. Similar in historic importance to the Lewis and Clark National Trail,

this new historic watertrail will inspire generations of Americans and visitors to follow Smith's journeys, to learn about the roots of our nation and to better understand the contributions of the Native Americans who lived within the Bay region.

Equally important, the Captain John Smith Chesapeake National Watertrail can serve as a national outdoor resource by providing rich opportunities for education, recreation, and heritage tourism not only for more than 16 million Americans living in the Bay's watershed, but for visitors to this area. The water trail would be the first National Watertrail established in the United States and would allow voyagers in small boats, cruising boats, kayaks and canoes to travel from the distant headwaters to the open Bay—an accomplishment that would inspire today's explorers and would generate national and international attention and participation. The Trail would complement the Chesapeake Bay Gateways and Watertrails Initiative and help highlight the Bay's remarkable maritime history, its unique watermen and their culture, the diversity of its peoples, its historical settlements and our current efforts to restore and sustain the world's most productive estuary.

This legislation enjoys strong bipartisan support in the Congress and in the States through which the trail passes. The legislation has been endorsed by the Governors of Virginia, Pennsylvania, Delaware and Maryland. The measure is also strongly supported by The Conservation Fund, Izaak Walton League, the Chesapeake Bay Foundation and the Chesapeake Bay Commission. I ask unanimous consent that letters from the latter two organizations expressing support for the legislation be printed in the RECORD. I want to commend Pat Noonan, Chairman Emeritus of The Conservation Fund, for his vision in conceiving this trail and urge that the legislation be quickly enacted.

As John Smith wrote four centuries ago and as many Americans today agree, ''no place is more convenient for pleasure, profit and man's sustenance'' than the Chesapeake Bay.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHESAPEAKE BAY FOUNDATION,
Annapolis, MD, February 3, 2005.

Hon. PAUL S. SARBANES,
Hart Senate Office Building,
U.S. Senate, Washington, DC.
Hon. JOHN W. WARNER
Russell Senate Office Building,
U.S. Senate, Washington, DC.

DEAR SENATOR SARBANES AND SENATOR WARNER: John Smith's 1607–9 exploration of the Chesapeake was a monumental and historic achievement, shaping the boundaries, character and future of America. His courageous crew traveled almost 3,000 miles along the Chesapeake exploring the rivers and making contact with American Indian tribes from what today is known as Maryland, Virginia, Washington D.C., Pennsylvania, and Delaware.

In honor of the 400th anniversary of the founding of Jamestown in 1607 and the voyages of exploration in the Chesapeake Bay, the Chesapeake Bay Foundation heartily supports the establishment of the Capt. John Smith Chesapeake National Historic Watertrail. We also see the Trail as a vital complement to a strong Chesapeake Bay Gateways Network and believe that valuable synergy can result from the combination.

Accordingly, we wish to express our support for the bipartisan legislation you are introducing to authorize the National Park Service to study the national significance of Smith's voyages of exploration and the feasibility of estabIihing a watertrail to commemorate the voyage.

We believe that the Capt. John Smith Chesapeake National Historic Watertrail would provide invaluable assistance in meeting the goals of the Chesapeake 2000 Agreement, our blueprint for restoring and sustaining the Bay's ecosystem, which has been badly damaged over the past 400 years by the heavy footprints of our large and still-growing presence in its watershed.

By focusing national attention upon the inherent beauty and abundance of the Bay and its rich cultural and historic values, America's first national watertrail would educate and inspire visitors to explore, restore, and protect this unique resource. The watertrail would provide exceptional interpretation and stewardship opportunities, promote habitat restoration and protection, and provide unparalleled recreational and eco-heritage experiences—all in a cost-efficient and low-impact manner.

Involving Communities, non-governmental organizations public agencies, businesses, and private landowners in establishing the Capt. John Smith Chesapeake National Historic Watertrail would demonstrate a new model for public-private partnerships that will form the basis of how we care for our national treasures in the 21st century.

Nearly 400 years ago Smith sailed the Chesapeake and saw the promise of a nation built on exploration, discovery and partnership. America's first national watertrail will celebrate the waters that once captured America's imagination and instill awe and the, spirit of discovery in future explorers, while it motivates them to take up active roles in restoring its health.

Your support of the study is critical to recognize this magnificent national resource.

Respectfully,

WILLIAM C. BAKER,
President.

CHESAPEAKE BAY COMMISSION,
Annapolis, MD, February 1, 2005.

Hon. PAUL S. SARBANES,
Hart Senate Office Building,
U.S. Senate, Washington, DC.
Hon. JOHN W. WARNER,
Russell Senate Office Building,
U.S. Senate, Washington, DC.

DEAR SENATOR SARBANES AND SENATOR WARNER: John Smith's 1607–9 exploration of the Chesapeake was a monumental historic achievement, shaping the boundaries, character and future of America. His courageous crew traveled almost three thousand miles along the Chesapeake exploring the rivers and making contact with American Indian tribes from what today is known as Maryland, Virginia, Washington D.C., Pennsylvania and Delaware.

In honor of the 400th anniversary of the founding of Jamestown in 1607 and the voyages of exploration in the Chesapeake Bay, we support the establishment of the Capt. John Smith Chesapeake National Water Trail. The Trail would be a vital complement to the existing Chesapeake Bay Gateways Network.

Accordingly, we wish to express our support for the bipartisan legislation you are introducing to authorize the National Park Service to study the national significance of Smith's voyages of exploration and the feasibility of establishing a water trail to commemorate the voyages.

We believe that the Capt. John Smith Chesapeake National Water Trail would provide invaluable assistance in meeting the goals of the Chesapeake 2000 Agreement, our blueprint for restoring and sustaining the bay's ecosystem.

By focusing national attention upon the inherent beauty and abundance of the Bay and its rich cultural and historic values, America's first national water trail would educate and inspire visitors to explore and protect this unique resource. The trail would provide exceptional interpretation and stewardship opportunities, promote habitat restoration and protection and provide unparalleled recreational and eco-heritage experiences—all in a cost-efficient and low-impact manner.

Involving communities, non-governmental organization, public agencies, business and private landowners in establishing the Water Trail would demonstrate a new model for public-private partnerships that will form the basis of how we care for our national treasures in the 21st century.

Nearly 400 years ago Smith sailed the Chesapeake and saw the promise of a nation built on exploration, discovery and partnership. America's first national water trail will celebrate the waters that once captured America's imagination and instill awe and the spirit of discovery in future explorers.

Your support of the study is critical to recognize this magnificent national resource.

Respectfully,

Senator MIKE WAUGH,
Chairman.

Mr. WARNER. Mr. President, come 2007, Virginia, along with the rest of our great Nation, will celebrate the 400th anniversary of the historic founding of Jamestown, the first permanent English settlement in the New World. At this site, back in 1607, an adventurous band of Englishmen, led by Captain John Smith, pitched down their stakes on the shores of the Chesapeake Bay, tired from a long journey across the blue ocean, but full of hope for the possibilities that lay ahead. And although they primarily came in search of economic gain, they brought with them many of the principles that were integral to the formation of our American Democracy. Free enterprise, the entrepreneurial spirit, and respect for the principles of representative government and the rights of man would guide these settlers through the trials and tribulations of those tough, early years.

As we Virginians know, nobody was more influential in this founding endeavor, than their leader: Captain John Smith. Captain Smith was not just the man famously saved from death by Pocahontas, and he was more than the mere commander of a small group of pioneers. John Smith, as Virginians learn at a young age, was the first ambassador to the native peoples of the Chesapeake, exchanging cultural customs, trading goods necessary for the fledgling colonists survival. John Smith was also the first English explorer of the many creeks and rivers

that populate the Maryland and Virginia of today. From 1607 to 1609, Captain Smith plied the briny Bay waters, recording history and surveying the land, even this patch of Earth where our Nation's Capitol stands today. In honor of Captain Smith's historic 3,000 mile journey through the choppy Chesapeake's main stem and tributaries, I rise today, joined by Senator SARBANES and my colleagues from the Bay States, to propose a bill authorizing the study of the feasibility of designating the Captain John Smith Chesapeake National Historic Watertrail.

What would this trail accomplish? What would be its purpose? Outside of the obvious tourism it would bring to the region, and besides the fact that its creation would complement the existing Chesapeake Gateways Network, the Watertrail would educate Americans on the perils of our first English settlers, on their interaction with the numerous Native tribes, on the voyages they undertook to better understand the New World they had come to inhabit. First hand, students and seniors, parents and children, would be able to retrace the paddle strokes and footsteps of Captain John Smith, to see what he saw, to learn what he learned, to know what he meant when he wrote in his diary that ''oysters lay thick as stones'' and fish could be caught ''with frying pan(s).''

Ultimately, this trail would allow for a deeper appreciation for the Chesapeake, for a better understanding of the settlers hardships, and for the distinct cultures, English and Indian, that came to pass, in that historic era, at this historic place. Today I rise to celebrate Captain Smith's foresight, to celebrate the founding steps of America, and to celebrate the bounty of the Bay. I urge my colleagues to join me in supporting this feasibility study for the Captain John Smith Chesapeake National Historic Watertrail.

By Mr. SMITH (for himself, Mr. BINGAMAN, Ms. SNOWE, Mr. JEFFORDS, Mr. SANTORUM, Mr. KERRY, Mr. DEWINE, Mr. DURBIN, Mr. CHAFEE, Mrs. LINCOLN, Ms. COLLINS, Mr. NELSON of Nebraska, Mr. VOINOVICH, Mr. CORZINE, and Mr. COLEMAN):

S. 338. A bill to provide for the establishment of a Bipartisan Commission on Medicaid; to the Committee on Finance.

Mr. SMITH. Mr. President, first, let me thank the twenty-or-so organizations that have offered their support for our bill which creates a Medicaid Commission. I ask unanimous consent that the full list of groups and their letters of support be printed in the RECORD. The importance of this bill, I believe, is demonstrated by the outpouring of support expressed by such a diverse group of people representing state and local elected officials, providers and advocates. It is truly impressive.

With the debate growing over the President's budget proposal for the Medicaid program, Senator BINGAMAN and I are joining together with many of our colleagues to introduce this bill that calls for the creation of a Medicaid Commission. We are joined by Senators SNOWE, LINCOLN, SANTORUM, BEN NELSON, DEWINE, JEFFORDS, COLLINS, DURBIN, CHAFEE and KERRY in introducing the bill today.

For too long Medicaid has gone unnoticed by policy makers. Over the past few decades Congress has spent a great deal of time and effort modernizing the Medicare program, developing ideas to fund Social Security, reforming our intelligence gathering apparatus, and enacting legislation that stimulates the economy. Yet, through it all Medicaid has gone unnoticed, even though it recently became the nation's largest health care program.

As the former President of the Oregon Senate, I have long championed Medicaid and worked to protect the vulnerable populations who are helped by it. As a new member of the Finance Committee in 2003, I helped lead the effort to provide $20 billion in short-term fiscal assistance. However, since that time it has become clear that Medicaid requires more than band-aide fixes.

Medicaid requires a thorough review that should be performed by all key stakeholders working together to evaluate the program. We need to consider its pluses and minuses, and then chart a new path for the future. Our proposed Medicaid Commission will do just that.

As I have discussed with Governors, Secretary Leavitt and Administrator McClellan, we have a unique opportunity in the history of the Medicaid program. For once, everyone seems to be focused on protecting and improving the program. The challenge lies in bringing everyone together.

It certainly won't be easy, but accomplishing great things never is. It will require both parties to work together. It will require Congress to reach out to the Administration, Governors, State Legislators, providers and advocates to determine how best to improve such a vital program.

And it will require advocates and providers to be willing to listen to new ideas that may help improve the program by creating efficiencies, improving quality and expanding access to care. This can't be accomplished working against each other or only with select partners—it can only be accomplished when everyone works together.

I have never argued that this Commission is necessary because Medicaid is broken. I truly believe in this program because I have seen the difference it makes in Americans' lives. It helps support poor children so they can go to school healthy and ready to learn.

It helps a poor expectant-mother receive the prenatal care necessary for her new child to be born healthy and able to live a fulfilling life, it helps a family manage the care of a disabled child, and it helps an elderly person spend their last few years living with dignity. However, this program is not perfect; improvements can and should be made.

I don't have to look any further than my home State of Oregon to see that change can be beneficial. In Oregon, most people who live with a disability or who are elderly are served in their home or community. It seems appropriate that this would happen, but Oregon actually had to apply for a waiver to care for people in this way. That's because under Medicaid States receive incentives to care for people in nursing homes, it's called an institutional bias.

On the other hand, extreme reforms should be instituted simply to save money. Medicaid is expensive, but so is private health care coverage in this country. And in comparison, Medicaid is a pretty good deal.

On a per-capita basis, Medicaid has only grown at a little more than four percent while private sector health care costs have grown at over 12 percent. The problem with Medicaid is that enrollment is growing and a lot more money is being spent on long-term care compared to years past.

Much work is ahead of us. And one of the best ways to keep Medicaid on the right path and ensure its long-term sustainability is to enact this bill right now. If this Commission were made law today, we could have its recommendations in time to inform Congress' deliberations next year. We have a short window of opportunity before us. I urge my colleagues, the President and all supporters to embrace this bill today and call for its passage so the Medicaid Commission can get to work.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ORGANIZATIONS SUPPORTING THE BIPARTISAN COMMISSION ON MEDICAID ACT OF 2005

National Alliance for the Mentally Ill (NAMI); National Association of Public Hospitals & Health Systems (NAPH); American Hospitals Association (AHA); National Association of Community Health Centers (NACHC); National Association of Children's Hospitals (NACH); AIDS Institute; National Rural Health Association; Catholic Health Association of the United States; National Conference on Aging (NCOA); Conference of State Legislatures (NCSL); National Hispanic Medical Association (NHMA); The American Academy of HIV Medicine; American Association of Family Physicians (AAFP); Association for Community Affiliated Plans (ACAP); American Health Care Association (AHCA); National Association of Counties (NACo); American College of Obstetricians & Gynecologists (ACOG); American Dental Association (ADA); American Psychiatric Association; Alliance for Quality Nursing Home Care; American Geriatrics Society.

AMERICAN HEALTH CARE ASSOCIATION,
Washington, DC, February 7, 2005.

Hon. GORDON SMITH,
U.S. Senate, Russell Senate Office Building, Washington, DC.

Hon. JEFF BINGAMAN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATORS SMITH AND BINGAMAN: I am writing on behalf of the American Health

Care Association and the National Center for Assisted Living, the nation's leading long term care organizations. AHCA/NCAL represent more than 10,000 non-profit and proprietary facilities dedicated to continuous improvement in the delivery of professional and compassionate care for our nation's frail, elderly and disabled citizens who live in nursing facilities, assisted living residences, subacute centers and homes for persons with mental retardation and developmental disabilities. AHCA/NCAL and their membership are committed to performance excellence and Quality First, a covenant for healthy, affordable and ethical long term care.

We review with great interest your draft legislation that would establish a Bipartisan Commission on Medicaid and the Medically Underserved. We welcome focus on the Medicaid program from a population and a payment perspective. Long term care is unique in that the government is the purchaser of almost all nursing home services. The government demands that quality be first rate—as it should—yet the payment structure that would support greater quality is regulated in silos, separate from each other. At a time when we as a nation ought to be strengthening our long term care infrastructure to prepare for the wave of baby-boom retirees who will enter the system, we are, instead, allowing the infrastructure to deteriorate.

Heretofore, Congress has focused on Medicare primarily for the long term care sector, yet Medicare is a small albeit significant portion of our patient population. lt is becoming a better known fact that the Medicaid program funds the majority of the care for people in nursing homes. Approximately 67% of the average nursing home patient population relies on Medicaid to pay their bill. And, approximately 50% of the average nursing home's revenues come from Medicaid.

This is why we find it illogical that the Medicare Payment Advisory Commission (MEDPAC) continues to focus solely on the sector's Medicare-only issues—without also looking at Medicaid. When it comes to making important public policy recommendations that truly impact people's lives, it is inconceivable that data used to reach conclusions about the sufficiency of Medicare funding fails to look collectively at the real, and growing, interdependence between Medicare and Medicaid.

We must take steps to begin to reform the long term care system in terms of its reliance on the Medicaid program. Yet, reform does not happen in a vacuum and we must have a debate of ideas. We know a key stakeholder—the National Governors Association—has placed this issue high on their list of priorities. We are also beginning to see this issue raised within the Social Security debate.

We support your legislation but do so with some recommendations. First, we recommend that your legislation consider the entire long term sector in terms of our payment structure. Second, time is running out for reform and so we believe the Commission should be vested with adequate power and authority that its recommendations make a significant impact on the policymaking process. We are not sure if the Commission in its current form has enough force to really be the catalyst for new ideas for reform.

We wholeheartedly believe that a far more holistic evaluation is called for at this critical point in time, so that beneficiaries will not fall through the cracks due to an incomplete data picture and a short-sighted policy. Again, thank you for the opportunity to review your legislation and I look forward to working with you on Medicaid issues this year.

Sincerely,

HAL DAUB,
CEO and President.

THE AIDS INSTITUTE,
Washington, DC, January 24, 2005.

Re Bipartisan Commission on Medicaid and the Medically Underserved Act of 2005.

Senator GORDON SMITH,
U.S. Senate,
Washington, DC.
Senator JEFF BINGAMAN,
U.S. Senate,
Washington DC.

DEAR SENATORS SMITH AND BINGAMAN: As the single largest source of federal financing of health care and treatment for low income people with HIV/AIDS, the future viability of our Nation's Medicaid program will have a direct bearing on the health of hundreds of thousands of Americans living with HIV/AIDS. Since Medicaid provides access to healthcare for 55 percent of all people living with AIDS, 44 percent of people with HIV, and 90 percent of all children living with AIDS, it plays a critical role in providing access to life-saving medications that prevent illness and disability, and allow people to live longer, more productive lives.

Because many people with HIV/AIDS are low income, or become low income-and disabled, Medicaid is an important source of coverage. In FY 2002, Medicaid spending on AIDS care totaled $7.7 billion, including $4.2 billion in federal dollars and $3.5 billion in state funds.

Any radical change to the benefits provided by Medicaid or its financing structure can have devastating impacts that can seriously jeopardize access to HIV/AIDS care in the United States. What is needed is a carefully crafted, long term solution to the current challenges facing the Medicaid program so that low income and disabled Americans, including those living with HIV/AIDS, are provided the necessary healthcare they require.

The AIDS Institute applauds you on the introduction of the ''Bipartisan Commission on Medicaid and the Medically Underserved Act of 2005'', and looks forward to its passage in the very near future. The Bipartisan Commission envisioned by the bill would create the necessary careful review of the Medicaid program in a truly bipartisan manner with the expertise of representatives of the affected communities and government entities. The AIDS Institute strongly believes that such a review, as designed by your legislation, will result in a process to conduct a thoughtful review of the Medicaid program outside of the often partisan political process.

The AIDS Institute congratulates you on your leadership on this program, which is critically important to so many people living with HIV/AIDS, and the introduction of the ''Bipartisan Commission on Medicaid and the Medically Underserved Act of 2005''. We look forward to its enactment, participating in the Commission activities, and the eventual recommendations of its final report.

Sincerely,

Dr. A. GENE COPELLO,
Executive Director.

NATIONAL ASSOCIATION OF CHILDREN'S HOSPITALS,
Alexandria, VA, February 8, 2005.

Hon. GORDON SMITH,
U.S. Senate,
Washington, DC.
Hon. JEFF BINGAMAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR SMITH AND SENATOR BINGAMAN: On behalf of the National Association of Children's Hospitals (N.A.C.H.) and our more than 120 members nationwide, I thank you for your leadership in introducing the ''Bipartisan Commission on Medicaid Act of 2005.'' Medicaid's critical role in providing health coverage to low-income children, as a major payer for children's hospital services and the primary safety net in the nation's pediatric health care infrastructure cannot be overstated. We welcome a thoughtful review to strengthen and secure this vital program for years to come.

Medicaid is now the largest single source of health care coverage for children in the nation. Half of its 53 million enrollees are children and one in four children in the country relies on Medicaid for health coverage. But children account for only 22 percent of the costs, with the lion's share of the costs attributable to people with significant health and long term care needs such as the elderly and people with disabilities.

Medicaid and children's hospitals are partners in caring for children. Our member hospitals are major providers of both inpatient and outpatient care to children on Medicaid. In fact, children on Medicaid represented 47 percent of all discharges and 41 percent of all outpatient visits at children's hospitals in FY 2003.

And children's hospitals rely on Medicaid to serve all children, not just low-income children. When provider reimbursements are cut, or benefits and eligibility changes are made, it affects children's hospitals' ability to provide a wide range of services that all children rely upon.

As the single largest payer of children's health care, Medicaid's performance affects the health care of all children. It's coverage of low income children has enabled advancements in pediatric medicine that would not have been otherwise possible. We need to sustain Medicaid's successes and move forward to ensure that eligible children are enrolled, with access to appropriate, effective and safe care.

Your legislation recognizes, as do our member hospitals, that the future of Medicaid is not simply about cost. A hasty move toward program reforms without a thorough review of the program with input from those most closely associated with the program would be irresponsible. The National Association of Children's Hospitals applauds your efforts to direct attention to how to improve service delivery and quality care in Medicaid.

We again congratulate you on your leadership in introducing this important legislation and we look forward to working toward its enactment.

Sincerely,

LAWRENCE A. MCANDREWS.

ASSOCIATION FOR COMMUNITY AFFILIATED PLANS,
Washington, DC, February 8, 2005.

Hon. GORDON SMITH,
Hon. JEFF BINGAMAN,
U.S. Senate,
Washington, DC.

DEAR SENATORS SMITH AND BINGAMAN: I write today on behalf of the members of the Association for Community Affiliated Plans (ACAP), an organization of Medicaid-focused community affiliated health plans committed to improving the health of vulnerable

populations and the providers who serve them, to express our support for your legislation, ''The Bipartisan Commission on Medicaid Act of 2005.'' ACAP's Medicaid-focused managed care plans serve over 1.7 million Medicaid beneficiaries in states across the country.

The demand for efficiency and quality in our nation's health care system combined with the fiscal pressures on the federal, state and local governments has spurred consideration of a broad spectrum of proposals to reform the Medicaid program. Like you, ACAP believes the forty year-old program is in need of updating. However meaningful and sustainable changes will only occur if federal and state policymakers along with providers, health plans, consumers and others undertake a comprehensive and forthright examination of the Medicaid program.

The purpose of such a review should be to improve the efficiency of the Medicaid program based on historical experiences and recent advances in health care while preserving the fundamental purpose of the program—to serve as the nation's health care safety net for the millions of low income children, families, elderly, and disabled.

ACAP believes that your legislation establishing a Medicaid commission would move our nation's policymakers and health care leaders in the right direction. The commission's work would be instrumental in understanding the underlying inefficiencies as well as the initiatives and programs that have proven successful. In turn, the commission would direct health care leaders to respond accordingly with improvements that can and should be made to the Medicaid program.

Should your legislation be enacted into law, we encourage you to include a representative of the managed care plans on the Commission. Medicaid managed care has been shown to provide greater quality of care and access to providers at a lower price than the traditional fee-for-service programs. As such, it can serve as a model for reform of the Medicaid program.

Tens of millions of Americans rely on Medicaid to receive health care services. ACAP believes your commission would result in reform that will be thoughtfully considered in light of the significant consequences for Medicaid enrollees as well as the providers that deliver their care.

Please do not hesitate to contact me if there is any way we can contribute further to this effort.

Sincerely,

MARGARET A. MURRAY,
Executive Director.

NATIONAL ASSOCIATION OF
COMMUNITY HEALTH CENTERS, INC.,
Washington, DC, February 7, 2005.

Hon. GORDON SMITH,
Hon. JEFF BINGAMAN,
U.S. Senate,
Washington, DC.

DEAR SENATORS SMITH AND BINGAMAN: On behalf of the National Association of Community Health Centers, the advocate voice for our nation's Community, Migrant, Public Housing and Homeless Health Centers, and the more than 15 million underserved people cared for by them, I am writing to offer our strong endorsement of your legislation to create a bipartisan commission on Medicaid.

Pressure undoubtedly is growing at the federal and state levels to consider reforms to Medicaid, some of which could dramatically alter its fundamental structure. The commission envisioned by your legislation would provide the necessary leadership and serve as a credible forum for developing viable solutions to strengthen Medicaid's long-term financial health and assure that it continues its crucial role as a safety net for our nation's most vulnerable populations.

Community health centers serve as a major provider of primary and preventive care to nearly 6 million of the estimated 51 million people served by Medicaid. Moreover, studies continue to demonstrate that health centers save Medicaid 30% in total health care costs compared to other providers. Unfortunately, some reform proposals now being discussed merely seek to cap spending or restrict Medicaid's long-term cost, raising significant concerns about the continued ability of health centers and other safety net providers to provide quality health care to Medicaid patients.

Health centers believe efforts to improve Medicaid should seek to preserve the federal guarantee of its coverage, and not reduce or eliminate its services or consumer protections. In addition, we also believe it is important that these efforts recognize the critical role that health centers and other safety net providers play as essential sources of care for millions of Medicaid recipients and uninsured Americans.

Medicaid is a health insurance program of critical importance in this country, and finding solutions to its current challenges can be daunting. However, lawmakers must strive to forge a bipartisan consensus that aims to protect the public's health, while ensuring that its benefits and services remain a reality for low-income individuals. We strongly believe that your commission is the appropriate forum to achieve this goal. Therefore, we are proud to endorse and offer our full support for your legislation, and we stand ready to assist you in helping to achieve its enactment.

Please do not hesitate to contact me or Licy Do Canto, Assistant Director of Health Care Financing Policy, if there is any way we can contribute further to this effort.

Sincerely,

DANIEL R. HAWKINS, Jr.,
Vice President for Federal, State, and Public Affairs.

THE CATHOLIC HEALTH ASSOCIATION,
Washington, DC, February 8, 2005.

Hon. GORDON SMITH,
Chairman, Special Committee on Aging, U.S. Senate, Washington, DC.

DEAR CHAIRMAN SMITH: On behalf of the Catholic Health Association of the United States (CHA), the national leadership organization of more than 2,000 Catholic health care sponsors, systems, facilities, and related organizations, I am writing to express our strong support for the ''Bipartisan Commission on Medicaid Act of 2005.''

As you know, Medicaid provides crucial services to over 50 million low-income children and pregnant women, the elderly, and persons with disabilities. Many of these individuals receive care in Catholic hospitals and Catholic long-term care facilities. Without a strong and vibrant Medicaid program, the number of uninsured individuals in the United States would be dramatically worse. In light of the critical role that Medicaid plays in the health of our nation, we believe that it is important to undertake a comprehensive review of the program before making any dramatic changes. To do otherwise could further unravel an already frail health care safety net.

For that reason, we are pleased to offer our support for your legislation. By assembling a 23-member commission to undertake a thorough review of the Medicaid program, your legislation can help ensure that Medicaid continues to play a key role in the health care safety net for years to come. We are particularly pleased that the commission would be comprised in part from important stakeholders in the Medicaid program, including representation from the health care provider community and advocates for Medicaid beneficiaries.

We are grateful for your continued efforts in support of the Medicaid program. If we can be of further assistance, please do not hesitate to contact me.

Sincerely,

MICHAEL RODGERS,
Vice President, Advocacy and Public Policy.

NATIONAL ASSOCIATION OF PUBLIC
HOSPITALS AND HEALTH SYSTEMS,
Washington, DC February 8, 2005.

Hon. GORDON SMITH,
Hon. JEFF BINGAMAN,
U.S. Senate,
Washington, DC.

DEAR SENATORS SMITH AND BINGAMAN: I am writing on behalf of the National Association of Public Hospitals and Health Systems (NAPH) to express our support for the Bipartisan Commission on Medicaid Act of 2005. The legislation recognizes Medicaid's critical role in supporting our nation's safety net and emphasizes the need to carefully consider any changes to the program in order to protect Medicaid patients and the providers who serve them.

NAPH represents more than 100 of America's metropolitan area safety net hospitals and health systems. NAPH hospital systems serve unique roles in their communities often as the largest provider of inpatient and ambulatory care to Medicaid patients and patients without insurance and as providers of essential services needed by everyone in their communities, such as trauma and burn care services. Medicaid is the primary mechanism for ensuring the provision of access to health care for low-income patients. It supports safety net providers, including NAPH members, who dedicate themselves to providing high quality care to anyone, regardless of their ability to pay. Medicaid payments provide 49 percent of the net patient care revenues of NAPH members and Medicaid disproportionate share hospital (DSH) payments alone support nearly 25 percent of the unreimbursed care provided by NAPH members. Therefore, Medicaid payment issues are of critical importance to NAPH members.

The proposed Commission on Medicaid could play an important role in protecting the future of Medicaid and in ensuring that any changes to Medicaid account for the various roles that the program currently serves. Promoting a thorough discussion among representatives of various Medicaid stakeholders to develop comprehensive recommendations is a responsible approach to examining the program. Measured consideration is especially important today as the number of uninsured continues to rise and as state Medicaid budgets experience increasing pressure. NAPH does not believe that reductions in the rate of growth or caps on Medicaid spending are necessary to achieve stability in the program.

Thank you for your ongoing support of Medicaid and safety net providers. We look forward to continuing to work with you on finding sustainable ways to preserve and protect Medicaid.

Sincerely,

LARRY S. GAGE,
President.

NAMI,
Arlington, VA, February 7, 2005.

Hon. GORDON SMITH,
Hon. JEFF BINGAMAN,
U.S. Senate,
Washington, DC.

DEAR SENATORS SMITH AND BINGAMAN: On behalf of the 210,000 members and 1,200 affiliates of the National Alliance for the Mentally Ill (NAMI), I am writing to express our

strong support for your legislation to form a bipartisan commission to study the future of the Medicaid program. As the nation's largest organization representing people with severe mental illnesses and their families, NAMI is pleased to support this important measure.

As you know, Medicaid is now the dominant source of funding for treatment and support services for both children and adults living with severe mental illness—currently, Medicaid comprises 50% of overall public mental health spending, a figure that is expected to rise to 60% by 2010. More importantly, Medicaid is a safety net program that is intended to protect the most disabled and vulnerable children and adults struggling with severe chronic illness and severe disabilities such as mental illness.

At the same time, Medicaid is facing enormous stress at the state level and in 2005 we expect more and more states will be seeking to curtail future spending. NAMI remains extremely concerned that these cuts are being made at the state level without any discussion about the long-term impact of the program. It is critically important that this debate gets beyond cost and considers reforms that can make the program more effective in meeting the needs of individuals who depend on Medicaid as a health care and community support safety net.

Your legislation to establish a bipartisan commission on Medicaid is critically important step forward to helping the federal government and the states consider and promote policies that improve the program and maintain its role in protecting the needs of low income people with severe disabilities. NAMI thanks you for your leadership on this important issue. We look forward to working with you to move this important legislation forward in 2005.

Sincerely,

MICHAEL J. FITZPATRICK, M.S.W.,
Executive Director.

THE NATIONAL COUNCIL ON THE AGING,
Washington, DC, February 8, 2005.

Hon. GORDON SMITH,
Russell Office Building,
Washington, DC.

DEAR SENATOR SMITH: On behalf of the National Council on the Aging (NCOA)—the first organization formed to represent America's seniors and those who serve them—is grateful for your leadership on Medicaid issues and supports your proposal to establish a bipartisan Commission on Medicaid.

Medicaid is the critical health care safety net for over 50 million of our nation's most vulnerable, poorest citizens. Seniors who depend on Medicaid are our oldest and most frail.

While Medicaid is an extremely important program, it is also quite expensive. Some have gone so far as to question our ability to continue to afford the essential services provided under the program. We fear that some proposals to reform Medicaid may be driven solely by budget concerns and misplaced priorities, rather than what is best for our nation and its citizens.

Medicaid is also a very complex program. We fear that only a small handful of members in the Congress and their staff understand how the program works, who it serves and what it covers.

Largely due to our record federal budget deficit and increasing budget challenges in the states, Medicaid this year is being considered for significant spending reductions and possible structural reforms. In our view, we should be very cautious before moving forward with far-reaching changes that could harm millions of Americans in need.

With the aging of the baby boom generation, Medicaid will face increasingly serious challenges in the future, not unlike those under the Medicare and Social Security programs. For those programs, Congress established bipartisan Commissions to consider reforms to strengthen and improve them as we begin to address demographic challenges. A similar non-partisan analysis is desirable for Medicaid. Bringing together experts and key stakeholders is a necessary prerequisite to reforming the program. For example, we need to be more creative about how to finance long-term care, while promoting access to a broader range of home and community services. We therefore support your proposal to establish a bipartisan Commission on Medicaid and look forward to working with you to enact legislation into law.

Sincerely

JAMES FIRMAN,
President and CEO.

AMERICAN HOSPITAL ASSOCIATION,
Washington, DC, February 4, 2005.

Hon. GORDON SMITH,
Hon. JEFF BINGAMAN,
U.S. Senate,
Washington, DC.

DEAR SENATORS SMITH AND BINGAMAN: On behalf of our 4,700 hospitals, health care systems, and other health care provider members, and our 31,000 individual members, the American Hospital Association (AHA) strongly supports your legislation to create a bipartisan commission on Medicaid and the uninsured. Pressure is mounting to reform Medicaid, our nation's largest health care safety net program. Your commission would provide the right setting to carefully deliberate needed policy changes and ensure the long-term financial stability of the program.

Medicaid serves over 52 million people, surpassing the number served by the Medicare program. Half of Medicaid's beneficiaries are children and one-quarter are elderly and disabled. It serves our nation's most vulnerable populations, and provides half of all the dollars spent on long term care in this country. Reform will have enormous consequences for those Medicaid covers and the providers that deliver their care. The blue ribbon panel you propose would be a responsible approach to examining the program.

The American Hospital Association does not believe that reductions in the rate of growth or caps on spending for Medicaid is needed to achieve positive, successful modernizations. The AHA stands ready to assist you in securing passage legislation for thoughtful, deliberate change to protect our most vulnerable citizens.

Sincerely,

RICK POLLACK,
Executive Vice President.

AMERICAN PSYCHIATRIC ASSOCIATION,
Arlington, VA, February 9, 2005.

Hon. GORDON SMITH,
Chairman, Senate, Special Committee on Aging,
Washington, DC.
Hon. JEFF BINGAMAN,
Senator,
Washington, DC.

DEAR CHAIRMAN SMITH AND SENATOR BINGAMAN: The American Psychiatric Association (APA), the nation's oldest medical specialty society representing more than 35,000 psychiatric physicians nationwide, is pleased to commend your legislation to establish the Bipartisan Commission on Medicaid and the Medically Underserved. The establishment of a Commission to examine Medicaid and the medically underserved will help identify Medicaid's current benefits and areas of needed strengthening.

For millions of Americans with mental illnesses, Medicaid is a critical source of care. Medicaid is especially important to states as they face deficits that threaten the stability of Medicaid funding for patients. We are also concerned about the possible consequences for those of our dual eligible patients who face potential disruptions of treatment as they shift from Medicaid to Medicare. This bears close attention.

Your leadership in calling for an assessment of Medicaid is timely and appreciated. APA would be pleased to be a resource of expertise in psychiatry and medicine with respect to Medicaid.

Thank you again for your leadership in assessing the needs of the nation's medically underserved.

Sincerely,

JAMES H. SCULLY JR., M.D.,
Medical Director.

AMERICAN DENTAL ASSOCIATION,
Washington, DC, February 8, 2005.

Hon. GORDON SMITH,
Hon. JEFF BINGAMAN,
U.S. Senate,
Washington, DC.

DEAR SENATORS SMITH AND BINGAMAN: On behalf of the American Dental Association (ADA), our 152,000 members and 597 state and local dental societies, we would like to offer strong support for your legislation to establish a bipartisan commission on Medicaid and the uninsured. As Congress and individual states begin to contemplate and propose Medicaid reform options, it is critical to ensure an open dialogue with all Medicaid stakeholders. Your commission would allow policymakers, practitioners, provider institutions, patients and others to work together to provide necessary reforms to this important program.

The ADA is particularly concerned with improving access to oral health care for low-income children and adults served by the Medicaid program. In the 2000 landmark report, Oral Health in America, the Surgeon General concluded that dental decay is the most prevalent childhood disease—five times as common as asthma, particularly for this population. We know that only one-in-four children enrolled in Medicaid receives dental care and only eight states currently provide comprehensive adult dental benefits. Cumbersome administrative requirements, lack of case management and inadequate payment rates affect dentist participation in the program and utilization of dental services. More must be done to improve the Medicaid program to ensure adequate access to oral health services.

The ADA looks forward to working with you to pass this legislation and address ways to strengthen and improve the dental Medicaid program, and the Medicaid program as a whole.

Sincerely,

RICHARD HAUGHT, D.D.S.,
President.
JAMES B. BRAMSON, D.D.S.,
Executive Director.

Mr. BINGAMAN. Mr. President, Senator SMITH and I have worked together successfully on several issues within the last year to defend and improve our Nation's health care safety, including on an amendment to the Medicare prescription drug bill addressing community health center payments within Medicare that passed by a vote of 94–1. However, none of these initiatives have been more important than the legislation that we are introducing together today, along with a list of 13 other senators—7 Republicans, 5 Democrats, and 1 Independent, 7 of which serve on the Senate Finance Committee—to create a Bipartisan Commission on Medicaid.

Joining Senator SMITH and I as original cosponsors are: Senators SNOWE, JEFFORDS, SANTORUM, KERRY, DEWINE, DURBIN, CHAFEE, LINCOLN, COLLINS, NELSON of Nebraska, VOINOVICH, CORZINE, and COLEMAN.

I will not go into the specifics of the legislation, as Senator SMITH has explained how the Commission would be formed and would operate. Instead, I will take the time to explain why it is that the formation of commission is so important.

Medicaid is a critically important health care safety net program that provides health care services to over 50 million low-income children, pregnant women, seniors, and people with disabilities.

In New Mexico, Medicaid is the single largest payor for health care. All told, Medicaid covers the health care costs of more than 400,000 New Mexicans—nearly one-quarter of our State's population.

Although the least expensive to cover, those who benefit most from Medicaid are nearly 300,000 of New Mexico's children. Of the various populations covered, children represent almost two-thirds of all our State's beneficiaries, which is the highest ratio in the Nation according to data from the Kaiser Family Foundation.

However, Medicaid is much more than just a safety net program for children from low-income families. It also serves low-income adults and pregnant women. It also serves senior citizens and people with disabilities who receive the bulk of their health care through Medicare but who still rely on Medicaid for a substantial share of their benefits and cost-sharing assistance. Medicaid also provides critically needed funding to support our Nation's safety net providers, including disproportionate share hospitals.

In the President's budget that was just released, the administration has proposed cutting Medicaid by $60 billion over the next 10 years. Secretary Leavitt recently testified in the Senate Finance Committee that he believes ''Medicaid is flawed and inefficient.''

There are others that believe Medicaid is not working and that costs are spiraling out of control and so the program needs dramatic overhaul.

In contrast. there are also those that will attest that there is absolutely nothing wrong with Medicaid. I firmly believe neither point of view is correct.

First, Medicaid is far from broken. The cost per person in Medicaid rose just 4.5 percent per year from 2000 to 2004. That compares to a 12 percent rise in the annual cost of premiums in the private sector. If that is the comparison, Medicaid seems to be about the most efficient health care program around, even more so than Medicare.

The overall cost of Medicaid is going up largely, not because the program is inefficient, but because more and more people find themselves depending on this safety net program for their health care during a recession. When nearly 5 million people lost employer coverage between 2000 and 2003, Medicaid added nearly 6 million to its program. Costs rose in Medicaid precisely because it is working—and working well—as our Nation's safety net program.

Consequently, as noted previously, Medicaid now provides health care to over 50 million low-income Americans, including one-quarter of all New Mexicans.

This is precisely why I so strongly oppose block grants or any arbitrary caps on Federal spending for Medicaid. If we had caps in 2000 and Medicaid could not have responded to the economic downturn, we would have 50 million uninsured today. Medicaid is a Federal-State partnership and an arbitrary cap of the Federal share to States is nothing more than the Federal Government trying to shift all risk to States.

On the other hand, it is also not true that Medicaid is not in need of improvement. The administration is rightly concerned about certain State efforts to provide ''enhanced payments'' to institutional providers as a significant factor in driving Medicaid costs. Secretary Leavitt, in a speech to the World Health Care Congress on February 1, 2005, referred to State efforts to maximize Federal funding as ''the Seven Harmful Habits of Highly Desperate States.'' As a result, he called for ''an uncomfortable, but necessary, conversation with our funding partners, the States.''

Unfortunately, Medicaid reform driven by a budget reconciliation process is not a dialogue or conversation. It is a one-way mechanism for the Federal Government to impose its will on the States. The administration's budget calls for $60 billion in cuts to Medicaid, including $40 billion that would directly harm States.

Where is the conversation in that? In fact, the States have a fair amount of complaint with Federal cost shifting to the States. While I certainly do not speak for the National Governors' Association or National Conference of States Legislatures, some of those grievances are rather obvious and I share them.

For example, according to data from Kaiser Family Foundation, 42 percent of the costs in Medicaid are due to Medicare dual eligible beneficiaries. These dual eligibles are also a major driver of health costs in Medicare and this is a prime example of where better coordination between Medicare and Medicaid could improve both programs. States have been calling for better coordination for years to no avail.

In the Medicare prescription drug bill that was passed by the Congress in 2003, the Federal Government imposed what is referred to as a ''clawback'' mechanism which forces the States to help pay for the Federally-passed Medicare prescription drug benefit. Although States will derive a financial windfall from moving dual eligibles from Medicaid coverage to Medicare, some of the States believe the ''clawback'' will cost them more than if they continued to provide prescription drug coverage themselves.

The prescription drug bill also impacted States financially in a host of other ways that went largely unnoticed, including those that increased Medicaid costs for dual eligibles as a result of increases in the Medicare Part B deductible and increased payments to the new Medicare Advantage plans. The law also required States to help enroll low-income Medicare beneficiaries into the low-income drug benefit.

In fact, the Congressional Budget Office, or CBO, estimated that States had $5.8 billion in added enrollment of dual eligibles in Medicaid due to what they refer to as a ''woodworking'' effect on dual eligibles trying to sign up for the low-income drug benefit discovering they are also eligible for Medicaid benefits. CBO further estimated that States had $3.1 billion in new administrative and other costs added by the prescription drug legislation.

States had no ability to ''have a conversation'' with the Federal Government about the imposition of such costs on them when the Medicare prescription1rrug drug bill was passed, but they should have and will have in our Bipartisan Commission on Medicaid.

Furthermore, due to a recent rebenchmarking done by the Department of Commerce's Bureau of Economic Affairs with respect to the calculation of per capita income in the States and the application of that data by the Centers for Medicare and Medicaid Services, or CMS, the Medicaid Federal Medical Assistance Percentage, or FMAP, many States, including New Mexico, will see a rather dramatic decline in their Federal Medicaid matching percentage. In fact, due to the rebenchmarking and other factors, 29 states will lose Medicaid funding in 2006 by an amount of in excess of $800 million. Again, this occurred with no dialogue or conversation.

Mr. President, I agree with Secretary Leavitt that there should be a conversation among all the stakeholders about the future of Medicaid and about what are the fair division of responsibilities between the Federal Government, States, local governments, providers, and the over 50 million people served by Medicaid. It is for this reason that the Bipartisan Commission on Medicaid includes all of those stakeholders at the table to have a full discussion and debate about the future of Medicaid.

It is our intent that the recommendations would not be focused on cutting costs but about improving health care delivery to our Nation's most vulnerable citizens. However, they are not mutually exclusive. In fact, both can and should be done.

There are those that will argue that a commission may not reach a consensus to make recommendations to

improve the Medicaid program and so is not worth the effort. I would strongly disagree and point to the fact that the National Academy for State Health Policy recently convened a workgroup they called Making Medicaid Work for the 21st Century that included many of the Medicaid stakeholders and came forth with a 78-page report with numerous recommendations with respect to eligibility, benefits, and financing. According to the report entitled Improving Health and Long-Term Care Coverage for Low-Income Americans, the workgroup attempted to ''assess areas where it would be most productive to focus on improvement in the program, and to develop consensus around recommendations for reform.'' I would underscore the emphasis of the workgroup on ''improving'' Medicaid and health coverage. This should be the primary and overriding goal of the Bipartisan Commission on Medicaid that we are introducing today.

Before closing, I once again thank Senator SMITH, the other 12 Senate cosponsors, and the various stakeholders—State and local governments, providers, and consumers that have endorsed this legislation—in an effort, not to cut Medicaid, but to make it more efficient and effective in the delivery of care to our Nation's most vulnerable citizens.

I ask unanimous consent to have a copy of the Fact Sheet accompanying this legislation printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FACT SHEET

BIPARTISAN COMMISSION ON MEDICAID

Senators Gordon Smith (R–OR), Jeff Bingaman (D–NM), Olympia Snowe (R–ME), Jim Jeffords (I–VT), Rick Santorum (R–PA), John Kerry (D–MA), Mike DeWine (R–OH), Richard J. Durbin (D–IL), Lincoln D. Chafee (R–RI) Blanche L. Lincoln (D–AR), Susan Collins (R–ME), Ben Nelson (D–NE), George Voinovich (R–OH), Jon S. Corzine (D–NJ), and Norm Coleman (R–MN) are introducing legislation that calls for the creation of a Bipartisan Commission on Medicaid.

Just as the Balanced Budget Act of 1997 called for the creation of the Bipartisan Commission on the Future of Medicare, the Medicaid program should also undergo a comprehensive and thorough review of what is and is not working and how to improve service delivery and quality in the most cost-effective way possible.

This legislation recognizes that determining the future of Medicaid is not simply about cost. While Medicaid is estimated to cost the federal government $188 billion in FY 2005, attention also should be given to the diverse population served. Over 50 million people receive care through Medicaid, including low-income seniors, people with disabilities, children, and pregnant women. Further, it is important to note that while costs are increasing, Medicaid is growing at a slower per capita rate than either Medicare or the private sector.

The Medicaid Commission would be charged with a number of duties, including reviewing and making recommendations with respect to the long-term goals, populations served, financial sustainability (federal and state responsibility), interaction with Medicare and the uninsured, and the quality of care provided.

Medicaid is a critically important program helping meet the health care needs of a diverse population through four different programs by serving as:

(1) a source of traditional insurance for poor children and some of their parents;

(2) a payer for a complex range of acute and long term care services for the frail elderly and people with disabilities;

(3) a source of wrap-around coverage or assistance for low-income seniors and people with disabilities on Medicare, including coverage of additional benefits and assistance with Medicare premiums and copayments; and,

(4) the primary source of funding to safety net providers that serve both Medicaid patients and the 45 million uninsured.

In recognition of this diversity, the bill's Medicaid Commission would be comprised of 23 members that reflect all the stakeholders and components in the Medicaid program. Those members include the following: One Member appointed by the President; Two House members (current or former) appointed by the Speaker and Minority Leader; Two Senators (current or former) appointed by the Majority and Minority Leader; Two Governors designated by NGA; Two Legislators designated by NCSL; Two state Medicaid directors designated by NASMD; Two local elected officials appointed by NACo; Four consumer advocates appointed by congressional leadership; Four providers appointed by congressional leadership; Two program experts appointed by Comptroller General.

The Commission has just one year to hold public hearings, conduct its evaluations and deliberations, and issue its report and recommendations to the President, the Congress, and the public.

Ms. SNOWE. Mr. President, I am pleased to join with a number of my colleagues in cosponsoring the Bipartisan Commission on Medicaid and the Medically Underserved Act of 2005, which Senator SMITH and Senator BINGAMAN are introducing today.

The Medicaid program provides essential medical services to low-income and uninsured children and their families, pregnant women, senior citizens, individuals with disabilities, and others. Last year, nearly 55 million Americans were enrolled in Medicaid, including more than 300,000 in Maine where one in five people now receive health care services through MaineCare, our State's Medicaid program.

Individuals who rely upon Medicaid-funded health services have no other option. Without Medicaid, they would join the ever growing ranks of the uninsured in this country, which now numbers an all-time high of more than 45 million Americans who lacked health coverage at some point last year. These two groups represent a total of 100 million Americans who would have no health insurance were it not for Medicaid coverage which reaches just over half of them. And to the extent that the Federal Government reduces its support for Medicaid funding, the numbers of uninsured Americans will rise at an even faster rate.

As Congress begins to consider the administration's Fiscal Year 2006 Budget, I believe we must take a balanced approach that is both fiscally responsible and reflects our long-standing commitments to provide health care for many of the low-income and uninsured through the Medicaid program. Although we face growing budget deficits and ever tightening Federal budgets, the Federal Government cannot simply abandon its responsibility to help states provide health care access to our most vulnerable citizens.

Today, Medicaid is the fastest growing component of State budgets, according to the most recent survey of the National Governors Association. Total Medicaid spending nationwide now averages 22 percent of State budgets, while State spending on all healthcare functions is approximately 31 percent. However, although its costs are increasing, the annual growth in Medicaid spending on a per capita basis is growing more slowly, at 4.5 percent a year, than the private sector where health insurance premiums have increased an average of 12.5 percent a year for the last 3 years.

The economic downturn which State economies experienced several years ago, and from which many States are only now emerging, has continued to leave many families jobless and without health insurance, forcing them to turn to Medicaid. This has put an enormous strain on the states already strapped with budget scarcities. Many States reduced Medicaid benefits last year and even more restricted Medicaid eligibility in an effort to satisfy their budgetary obligations.

In fact, the Chairman of the National Governors Association, Governor Warner of Virginia, and the Vice Chairman, Governor Huckabee of Arkansas, recently warned Congress that if Federal spending for Medicaid were capped and the number of Medicaid recipients increased sharply, States would face dire fiscal consequences. According to the Governors, total costs for State Medicaid programs are growing at an annual rate of 12 percent, and total Medicaid expenditures now exceed that of Medicare, due primarily to factors beyond States' control, especially the costs of long-term care: Medicaid now accounts for 50 percent of all State long-term care spending and pays for the care of 70 percent of those in nursing homes.

At this time, therefore, it is crucial that we continue to provide sufficient Federal funding for Medicaid, which has worked so well since it began providing care for some of our most vulnerable populations 40 years ago. We must proceed cautiously before making any significant changes in the program, and the Medicaid Commission established by this bill will ensure that necessary deliberative approach.

The concept of a commission to undertake a comprehensive review of the Medicaid program and recommend possible changes is similar to the commission which Congress established in the late 1990s, the Bipartisan Commission on the Future of Medicare. That commission examined various aspects of

the Medicare program to determine areas that should be modernized and later recommended a number of changes, including a prescription drug benefit. Those recommendations initiated the process of congressional debate and consideration of reforming the Medicare program, culminating in the Medicare Prescription Drug, Improvement, and Modernization Act which passed in 2003 and, among other reforms, included the new prescription drug benefit for seniors which will take effect next year.

The new Medicare prescription drug benefit will have a major impact on Medicaid since it will shift Federal expenditures for drug benefits currently provided by Medicaid for the ''dual eligible'' population—those who are eligible for both Medicaid and Medicare—to Medicare. However, this will not lift most of the financial responsibility and burden of prescription drug costs from the States. Recent estimates by the National Governors Association show that currently 42 percent of all Medicaid dollars are spent on ''dual eligible'' Medicare beneficiaries, although they comprise only a small percentage of Medicaid cases, and they are covered by Medicare for other services.

The new prescription drug program includes a provision known as the ''claw-back'' which will require States to remit funds to the Federal Government, based on their inflation-adjusted 2003 per person Medicaid expenditures for prescription drugs for these beneficiaries. Although the percentage share of drug costs that States must pay for the dual eligibles will decline over time, from 90 percent to 75 percent, States will continue to pay the lion's share of dual eligibles' prescription drug costs. Many States are just now recognizing this fact and are looking for ways to accommodate these ongoing costs.

Unanswered questions like these remain concerning the ultimate impact of the Medicare drug program on State budgets and Medicaid programs. One of the primary duties of the Medicaid Commission would be to review and make recommendations on the interaction of Medicaid with Medicare and other Federal health programs.

Moreover, the formula for calculating the Federal matching rate, known as the Federal Medical Assistance Percentage, FMAP, which determines the Federal Government's share of a State's expenditures for Medicaid each year, has also contributed to the Medicaid problems that States are facing. The FMAP formula is designed so that the Federal Government pays a larger portion of Medicaid costs in States with a per capita income lower than the national average. However, the formula looks back 3 years, to points in time that are not necessarily reflective of a State's current financial situation.

In fiscal year 2003, for example, the FMAP for that year was calculated in 2001 for the fiscal year beginning October 2002. The FMAP for FY 2003 was determined on the basis of State per capita income over the 3-year period of 1998 through 2000, when State economies were growing significantly. Yet in 2003, when this matching rate was in effect, a serious economic downturn was affecting many State budgets, and that downturn has contributed greatly to the growth of Medicaid for several years now.

We recognized this situation in the last Congress and provided for State fiscal relief by providing a temporary increase in the Federal Medicaid matching rate, which provided $10 billion in fiscal relief to States during fiscal 2003 and 2004, when we passed the Jobs and Growth Tax Relief Reconciliation Act of 2003. But that fiscal relief has sunset.

One of the duties of the Medicaid Commission would be to make recommendations on how to make Federal matching payments more equitable with respect to the States and the populations they serve, as well as how to make them more responsive to changes in States' economic conditions.

The fact is, Medicaid and Medicare have complex responsibilities, financing, and interrelationships and that is why a Medicaid Commission is vital for the future state budgets and the Medicaid program as a whole.

I urge my colleagues to join us supporting this legislation to help sustain and improve this critical health care safety net for our most vulnerable Americans.

By Mr. REID (for himself, Mr. BAUCUS, Mr. STEVENS, Mr. NELSON of Nebraska, and Mr. ENSIGN):

S. 339. A bill to reaffirm the authority of States to regulate certain hunting and fishing activities; to the Committee on the Judiciary.

Mr. REID. Mr. President, today I am introducing the ''Reaffirmation of State Regulation of Resident and Nonresident Hunting and Fishing Act of 2005.'' This legislation explicitly reaffirms each State's right to regulate hunting and fishing. I am pleased that Senators BEN NELSON, JOHN ENSIGN, MAX BAUCUS, and TED STEVENS are joining me in sponsoring this important bill.

This is a Nevada issue, but it also is a national issue, as a recent Federal circuit court ruling undermines traditional hunting and fishing laws. In Conservation Force v. Dennis Manning, the Ninth Circuit Court of Appeals ruled that State laws that distinguish between State residents and non-residents for the purpose of affording hunting and related privileges are constitutionally suspect.

This threatens the conservation of wildlife resources and recreational opportunities. Although the Ninth Circuit found the purposes of such regulation to be sound, the court questioned the validity of tag limits for non-resident hunters.

I respect the authority of States to enact laws to protect their legitimate interests in conserving fish and game, as well as providing opportunities for in-State and out-of-State residents to hunt and fish. That's what this legislation says—we respect that State right.

Sportsmen are ardent conservationists. They support wildlife conservation not only through the payment of State and local taxes and other fees, but also through local non-profit conservation efforts and by volunteering their time.

For example, in Nevada there are great groups such as Nevada Bighorns Unlimited and the Fraternity of Desert Bighorn. These are dedicated sportsmen who spend countless hours and much of their own money building ''guzzlers'' in the desert, which help provide a reliable source of water for bighorn sheep and other wildlife. Without these efforts it would be extremely hard for bighorn sheep to survive in much of their historic range in Nevada because much of their historic range has been fragmented by development. Today, Southern Nevada is in the midst of a very difficult 500-year drought, and the work of the conservation groups has saved thousands of our bighorn sheep.

The deep involvement of local sportsmen in protecting and conserving wildlife is one important justification for the traditional resident/non-resident distinctions, and provides the motivation for our legislation. The regulation of wildlife is traditionally within a State's purview, and this legislation simply affirms the traditional role of States in the regulation of fish and game.

This bill is time sensitive. The out-of-State hunters that brought the suit in the 9th Circuit are now threatening to get a restraining order from the Federal court to delay the opening of the big game season in Nevada this year. This threat itself is causing great damage to conservation and fish and game management in Nevada.

According to The Las Vegas Sun, Nevada's Wildlife Department has already borrowed $3 million to get through the fiscal year, eliminated three positions, and has plans to eliminate five more. Delaying hunting seasons while the courts resolve this issue could cause the Department to literally shut down.

Uncertainty with regard to hunting and fishing regulations is bad for the conservation of Nevada's resources. This bill needs to pass now. I look forward to working with my colleagues to expedite passage of this important legislation. I ask that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 339

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Reaffirmation of State Regulation of Resident and

Nonresident Hunting and Fishing Act of 2005''.

SEC. 2. DECLARATION OF POLICY AND CONSTRUCTION OF CONGRESSIONAL SILENCE.

(a) IN GENERAL.—It is the policy of Congress that it is in the public interest for each State to continue to regulate the taking for any purpose of fish and wildlife within its boundaries, including by means of laws or regulations that differentiate between residents and nonresidents of such State with respect to the availability of licenses or permits for taking of particular species of fish or wildlife, the kind and numbers of fish and wildlife that may be taken, or the fees charged in connection with issuance of licenses or permits for hunting or fishing.

(b) CONSTRUCTION OF CONGRESSIONAL SILENCE.—Silence on the part of Congress shall not be construed to impose any barrier under clause 3 of Section 8 of Article I of the Constitution (commonly referred to as the ''commerce clause'') to the regulation of hunting or fishing by a State or Indian tribe.

SEC. 3. LIMITATIONS.

Nothing in this Act shall be construed—

(1) to limit the applicability or effect of any Federal law related to the protection or management of fish or wildlife or to the regulation of commerce;

(2) to limit the authority of the United States to prohibit hunting or fishing on any portion of the lands owned by the United States; or

(3) to abrogate, abridge, affect, modify, supersede or alter any treaty-reserved right or other right of any Indian tribe as recognized by any other means, including, but not limited to, agreements with the United States, Executive Orders, statutes, and judicial decrees, and by Federal law.

SEC. 4. STATE DEFINED.

For purposes of this Act, the term ''State'' includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

By Mr. LUGAR:

S. 340. A bill to maintain the free flow of information to the public by providing conditions for the federally compelled disclosure of information by certain persons connected with the news media; to the Committee on the Judiciary.

Mr. LUGAR. Mr. President, I rise today to introduce the Free Flow of Information Act of 2005. This bill was originally introduced in the House of Representatives by my friend and colleague, Congressman MIKE PENCE. I applaud the initiative by my colleague to address this important issue and I am pleased to have this opportunity to be the Senate sponsor.

Last year, Congress passed legislation I proposed that directed the State Department to increase and add greater focus to international initiatives to support the development of free, fair, legally protected and sustainable media in developing countries.

I am pleased to announce that the State Department and the National Endowment for Democracy have embraced this initiative and are now proceeding with implementing this initiative.

Our Founders understood that free press is a cornerstone of democracy. To embrace and implement President Bush's bold and visionary call for the spread of democracy and freedom in the world, it is incumbent upon us to ensure that foreign assistance programs focus on the development of all the institutions that help democracies work and protect basic human rights.

While we focus on those needs abroad, we cannot let those basic freedoms erode at home. The Constitution makes very clear that freedom of the press should not be infringed. A cornerstone of our society is the open market of information which can be shared through ever expanding mediums. The media serves as a conduit of information between our governments and communities across the country.

It is important that we ensure reporters certain rights and abilities to seek sources and report appropriate information without fear of intimidation or imprisonment. This includes the right to refuse to reveal confidential sources. Without such protection, many whistleblowers will refuse to step forward and reporters will be disinclined to provide our constituents with the information that they have a right to know. Promises of confidentiality are essential to the flow of information the public needs about its government.

The Free Flow of Information Act closely follows existing Department of Justice guidelines for issuing subpoenas to members of the news media. These guidelines were adopted in 1973 and have been in continuous operation for more than 30 years. The legislation codifies the conditions that must be met by the government to compel the identity of confidential sources.

I am hopeful that my colleagues will give careful consideration to the merits of this legislation. It provides an appropriate approach and careful balance to protect our freedom of information while still enabling legitimate law enforcement access to information.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4. Mrs. FEINSTEIN (for herself and Mr. BINGAMAN) submitted an amendment intended to be proposed by her to the bill S. 5, to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes.

SA 5. Mr. PRYOR (for himself, Mr. SALAZAR, Mr. BINGAMAN, and Ms. CANTWELL) proposed an amendment to the bill S. 5, supra.

SA 6. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 5, supra; which was ordered to lie on the table.

SA 7. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 5, supra; which was ordered to lie on the table.

SA 8. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 5, supra; which was ordered to lie on the table.

SA 9. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 5, supra; which was ordered to lie on the table.

SA 10. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 5, supra; which was ordered to lie on the table.

SA 11. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 5, supra; which was ordered to lie on the table.

SA 12. Mr. FEINGOLD proposed an amendment to the bill S. 5, supra.

TEXT OF AMENDMENTS

SA 4. Mrs. FEINSTEIN (for herself and Mr. BINGAMAN) submitted an amendment intended to be proposed by her to the bill S. 5, to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes; as follows:

On page 24, before line 22, insert the following:

(c) CHOICE OF STATE LAW IN INTERSTATE CLASS ACTIONS.—Notwithstanding any other choice of law rule, in any class action, over which the district courts have jurisdiction, asserting claims arising under State law concerning products or services marketed, sold, or provided in more than 1 State on behalf of a proposed class, which includes citizens of more than 1 such State, as to each such claim and any defense to such claim—

(1) the district court shall not deny class certification, in whole or in part, on the ground that the law of more than 1 State will be applied;

(2) the district court shall require each party to submit their recommendations for subclassifications among the plaintiff class based on substantially similar State law; and

(3) the district court shall—

(A) issue subclassifications, as determined necessary, to permit the action to proceed; or

(B) if the district court determines such subclassifications are an impracticable method of managing the action, the district court shall attempt to ensure that plaintiffs' State laws are applied to the extent practical.

SA 5. Mr. PRYOR (for himself, Mr. BINGAMAN, and Ms. CANTWELL) proposed an amendment to the bill S. 5, to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes; as follows:

On page 5, between lines 2 and 3, insert the following:

''(1) ATTORNEY GENERAL.—The term 'attorney general' means the chief legal officer of a State.

On page 5, line 3, strike ''(1)'' and insert ''(2)''.

On page 5, line 5, strike ''(2)'' and insert ''(3)''.

On page 5, line 12, strike the period at the end and insert the following: '', but does not include any civil action brought by, or on behalf of, any attorney general.''.

On page 5, line 13, strike ''(3)'' and insert ''(4)''.

On page 5, line 17, strike ''(4)'' and insert ''(5)''.

On page 5, line 21, strike ''(5)'' and insert ''(6)''.

On page 6, line 1, strike ''(6)'' and insert ''(7)''.

On page 6, between lines 5 and 6, insert the following: